

8-10-16

SALINAS MILLS ACT PROGRAM

General Description

The Mills Act is a California State law allowing cities to enter into contracts with the owners of designated historic properties who agree to preserve, maintain, and improve their property, in exchange for property tax savings. Eighty-five cities and counties in the state have adopted such tax savings programs for designated historic properties. This is the most commonly used tax savings program for historic properties. The 2002 City General Plan, the 2010 Historic Resources Board Ordinance, and the 2015 Vibrancy Plan all call for the adoption of such a program to financially incentivize preservation of historic properties. The Pilot tax savings program will last for five years. After that period, the program will be evaluated and modified if necessary before its extension.

On December 7, 2015, the Historic Resources Board conducted a public hearing and voted unanimously to recommend City Council approval of a Mills Act Program. On June 1, 2016, the Planning Commission conducted a public hearing and also voted unanimously to recommend City Council approval of a Mills Act Program. On June 28, 2016, the City Council approved the City Mills Act Program.

Key elements of the Mills Act tax saving program are as follows:

1. A Mills Act Contract is an agreement between the City of Salinas and property owner of a City historic building listed as a "historic resource." The property owner benefits from a reduction in property taxes. The City is ensured the historic building is preserved via contract language requiring official designation by the City, historic design review of exterior alterations, and maintenance and improvements according to an agreed-upon schedule. "Historic resource" properties must meet certain requirements and be formally listed in accord with the City Historic Resources Board Ordinance.
2. A Mills Act Contract is for a period of ten (10) years with one (1) additional year being added on each year's anniversary; so the contract continues for ten (10) years unless it is cancelled. The contract, rights and obligations are binding upon all successive owners of the property during the life of the contract. This is a significant benefit because the property retains the lower Mills Act tax rate when the property is sold.
3. Recipients must prepare a Maintenance Plan and submit a bi-annual report to the Community Development Director, which will specify all work done to maintain and preserve the historic building over the year in accordance with the recipient's maintenance plan. All maintenance work must be done in accordance with the Secretary of Interior's Standards for Treatment of Historic Buildings.

4. The contract process is initiated by submittal of a complete application and fee to the City of Salinas Community Development Department. The application fee is \$____. Applications must be received during the months of May, June and July only. Staff then prepares a report for consideration by the Historic Resources Board. The Board reviews the application materials and staff report and recommends approval, modification, or denial of the request to the City Council. The City Council takes final action on the request and either approves, modifies, or denies it.
5. Once the contract has been approved by the City Council and signed by the applicant, the City will transmit the contract with the appropriate recording fee to the County Recorder's Office. After recordation, the recorded contract must be sent to the County Assessor who calculates the exact tax savings. The County Assessor must receive the recorded contract no later than December 31st for the contract (and tax savings) to start the following year.
6. The City Mills Act program limits the amount of City property taxes reductions to \$100,000/year. Two attached examples demonstrate that the City gains more than five times this amount in improvements to historic properties which take advantage of the program.

Attachments:

Commercial and Residential Tax Savings Examples
Mills Act Ordinance Excerpt
Mills Act Implementation Resolution
Mill Act Contract

MILLS ACT TAX SAVINGS EXAMPLE FOR COMMERCIAL BUILDING

General Tax Savings Information

- Residential property owners enjoy a 40-60% property tax savings
- Commercial property owners enjoy around a 16% tax savings
- City is assured that historic properties will be maintained

Tax Savings Example

- County taxes = 1% of the assessed property value
- 18% of the 1% is passed on to City

Property Value	\$2,000,000
Property Tax (1%)	\$ 20,000
City Receives (18%)	\$ 3,600

Mills Act Value (84%)	\$1,680,000
Property Tax (1%)	\$ 16,800
City Receives (18%)	\$ 3,024

Property-Owner Saves	\$3,200 (\$20,000 minus \$16,800)
City Tax Loss	\$576 (\$3,600 minus \$3,024)

10 Year Projection:

- Property Owner has \$32,000 more than normal to help maintain the historic building
- City receives \$5,760 less in taxes
- City receives \$5.55 dollars in historic building maintenance for each dollar it contributes in lost taxes ($32,000/5,760 = \$5.55$)
- For a 18% investment, the City gets \$32,000 in maintenance

MILLS ACT TAX SAVINGS EXAMPLE- RESIDENTIAL PROPERTY

General Tax Savings Information

- Residential property owners enjoy a 40-60% property tax savings
- Commercial property owners enjoy around a 16% tax savings
- City is assured that historic properties will be maintained

Tax Savings Example

- County taxes = 1% of the assessed property value
- 18% of the 1% is passed on to City

Example: Annual Values- Residential House

Property Value	\$500,000
Normal Property Taxes	\$5,000
City Normally Receives	\$900
Mills Act Taxes (40-60%)	\$2,000 - \$3,000
City Receives	\$360 - \$540
Property-Owner Saves	\$2,000 - \$3,000 (\$5,000 minus \$2,000-\$3,000)
City Tax Loss	\$360 - \$540 (\$900 minus \$360-\$540)

10 Year Projection:

- Property Owner has \$20,000 - \$30,000 more than normal to help maintain the historic building
- City receives \$3,600 - \$5,400 less in taxes
- City receives \$5.55 in historic building maintenance for every dollar it contributes in lost taxes ($20,000/3,600 = \$5.55$)

MILLS ACT ORDINANCE EXCERPT

Article XI, Section 2-71. – Historic Preservation Incentive - City of Salinas Mills Act Tax Savings Program for Historic Properties

Pursuant to California Government Code, Article 12, Section 50280 (known as the Mills Act), the City Council may establish a Mills Act Program providing for contractual agreement with an owner of an historic property as designated by the City Council or on any official federal, state or county register, for the purpose of preservation, rehabilitation, and maintenance of a designated historic resource. The terms of the Mills Act Agreement allow the owner to receive a reduction in property taxes in exchange for the property owner's commitment to specific repair, rehabilitation improvements and satisfactory maintenance of the historic property. The Agreement shall include, but not be limited to, the contract provisions as required under state law, and shall extend for a minimum period of 10 years, with automatic renewal on an annual basis, until and unless a notice of non-renewal or cancellation is filed. The application process, review procedures, and required contract provisions for Mills Act Agreements shall be established by separate resolution of the City Council and shall be implemented by the Community Development Director or his/her designee.

RESOLUTION NO. _____ (N.C.S.)

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALINAS, CALIFORNIA,
ESTABLISHING THE APPLICATION PROCESS, REVIEW PROCEDURES AND
REQUIRED CONTRACT PROVISIONS FOR A FIVE-YEAR SALINAS MILLS ACT
PROGRAM PURSUANT TO SALINAS MUNICIPAL CODE CHAPTER 2, ARTICLE
XI, SECTION 2-71**

WHEREAS, California Government Code section 50280, et seq. (the Mills Act) authorizes cities to enter into contracts (with the owners of qualified historical property) to provide for the use, maintenance and restoration of such historical property so to retain its characteristics as property of historical significance; and

WHEREAS, the City of Salinas General Plan and Zoning Ordinance contain policies and regulations to promote the preservation, maintenance, rehabilitation, and restoration of historic properties within the City limits; and

WHEREAS, pursuant to City of Salinas Code Chapter 2, Article XI, Section 2-62 has established procedures to identify and designate historic resources within the City; and

WHEREAS, the City recognizes that the reduction in property taxes provided by the Mills Act will act as a monetary incentive to acquire, designate, maintain, and rehabilitate historic property; and

WHEREAS, Mills Act preservation agreements will have beneficial effects on residential neighborhoods, businesses, community pride, and regional image; and

WHEREAS, City of Salinas Municipal Code Chapter 2, Article XI, Section 2-71 states that the application process, review procedures and required contract provision for preservation agreements shall be established by separate resolution of the City Council; and

WHEREAS, the proposed program and ordinance amendments are categorically exempt (Classes 5 and 31) from further environmental analysis per CEQA Guidelines Sections 15035 (Minor Alterations in Land Use Limitations) and 15331 (Historic Resource Restoration/Rehabilitation); and

WHEREAS, on December 7, 2015, the Historic Resources Board conducted a public hearing and voted unanimously to recommend City Council approval of a Mills Act Program; and

WHEREAS, on June 1, 2016, the Planning Commission conducted a public hearing and voted unanimously to recommend City Council approval of a Mills Act Program; and

WHEREAS, the City Council conducted a public hearing on June 28, 2016 to consider the ordinance amendment to establish a Mills Act program; and

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Salinas as

follows:

Section 1. MILLS ACT PROGRAM. The City establishes a five-year pilot Mills Act Program for the City, which will be considered for continuation in 2022 after review of the experience between 2016 and 2022.

Section 2. PROPERTY TAX CONTRIBUTION LIMITATION. The City will limit Mills Act related property tax contributions by the City to \$100,000/year or less. Applications will be accepted during the months of May, June and July only. If the number of applicants exceed the tax contribution limit, then eligible applications will be selected based upon the order by which they are received.

Section 3. CONTRACTS TO RESTRICT USE OF QUALIFIED HISTORICAL PROPERTY. Upon the application of an owner or the agent of an owner of any qualified historical property, the City Council may contract with the owner to restrict the use of the property for its preservation, restoration and rehabilitation as set forth in Section 5 to carry out the purposes of this article and of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.

Section 4. QUALIFIED HISTORICAL PROPERTY. "Qualified historical property" for purposes of this chapter, means privately owned property which is not exempt from property taxation and which meets City of Salinas Code Chapter 2, Article XI, Section 2-62.

Section 5. REQUIRED CONTRACT PROVISION. Any contract entered into under this article shall contain the following provisions: (a) The term of the contract shall be for a minimum period of 10 years. (b) Where applicable, the contract shall provide the following: (1) For the preservation of the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code. (2) For the periodic examinations of the interior and exterior of the premises by the assessor, the Community Development Department and the State Board of Equalization as may be necessary to determine the owner's compliance with the contract. (3) For it to be binding upon, and inure to the benefit of, all successors in interest of the owner. A successor in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract. (c) The owner or agent of an owner shall provide written notice of the contract to the State Office of Historic Preservation within six months of entering into the contract.

Section 6. APPLICATION PROCEDURE. Applications to Salinas shall be initially evaluated and reviewed by the Salinas Historic Resources Board. The Historic Resources Board shall hold a public hearing on every application for a Historic Preservation Contract. The public hearing shall be scheduled for a date not less than 10 days but not more than 90 days from the date the application is filed. After the hearing, the Historic Resources Board shall recommend to the Director of Community Development that the application be denied, granted in whole or in part, or modified subject to such conditions as it deems appropriate. The Director of Community Development shall make a recommendation to the City Council which has final authority to approve or deny a contract

if all of the conditions of this Resolution are met. The Director of Community Development shall be responsible for assuring performance of the Historic Property Preservation Contracts including contract administration, extension, cancellation, and enforcement.

Section 7. FEES TO BE PAID BY OWNER. As a condition of entering into the Historic Property Preservation Contracts, the property owner shall pay an application and processing fee to the City of Salinas, which is the reasonable cost of administrating the program. Said fee must be paid prior to processing the application.

Section 8. EXTENSION OR NON-RENEWAL OF CONTRACT; RECORDATION AND NOTICE OF CONTRACT. (a) Each contract shall provide that on the anniversary date of the contract or such other annual date as is specified in the contract, a year shall be added automatically to the initial term of the contract unless notice of nonrenewal is given as provided in this section. If the property owner or the City desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract on the other party in advance of the annual renewal date of the contract. Unless the notice is served by the owner at least 90 days prior to the renewal date or by the City at least 60 days prior to the renewal date, one year shall automatically be added to the term of the contract. (b) Upon receipt by the owner of a notice from the City of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The City may, at any time prior to the renewal date, withdraw the notice of nonrenewal. (c) If the City or the owner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be. (d) The owner shall furnish the City with any information the City shall require in order to enable it to determine the eligibility of the property involved. (e) No later than 20 days after the City enters into a contract with an owner pursuant to this article, the Clerk of the City shall record with the County Recorder a copy of the contract, which shall describe the property subject thereto. From and after the time of the recordation, this contract shall impart a notice thereof to all persons as is afforded by the recording laws of this state.

Section 9. CANCELLATION OF CONTRACT FOR OWNERS' BREACH OF CONDITIONS. 4 The City may cancel a contract if it determines that the owner has breached any of the conditions of the contract provided for in this article or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. The City may also cancel a contract if it determines that the owner has failed to restore or rehabilitate the property in the manner specified in the contract.

Section 10. NOTICE AND HEARING BEFORE CANCELLATION OF CONTRACT. No contract shall be canceled under Section 9 until after the City has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be mailed to the last known address of each owner of the qualified historic property and shall be published pursuant to California Government Code Sections 6060 and 6061.

Section 11. CANCELLATION FEE. (a) If a contract is canceled under Section 9, the owner shall pay a cancellation fee equal to 12 1/2 percent of the current fair market value of the property, as determined by the Assessor as though the property were free of the contractual restriction. (Gov. Code, § 50286.) (b) The cancellation fee shall be paid to the Auditor, at the time and in the manner that the county auditor shall prescribe, and shall be allocated by the county auditor to each

jurisdiction in the tax rate area in which the property is located in the same manner as the auditor allocates the annual tax increment in that tax rate area in that fiscal year. (c) Notwithstanding any other provision of law, revenue received by a school district pursuant to this section shall be considered property tax revenue for the purposes of Section 42238 of the Education Code, and revenue received by a county superintendent of schools pursuant to this section shall be considered property tax revenue for the purposes of Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code.

Section 12. ACTION TO ENFORCE CONTRACT. As an alternative to cancellation of the contract for breach of any condition, the city, or any landowner may bring any action in court necessary to enforce a contract including, but not limited to, an action to enforce the contract by specific performance or injunction.

Section 13. NULLIFICATION OF CONTRACT ON ACQUISITION OF PROPERTY BY EMINENT DOMAIN. In the event that property subject to contract under this article is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the City Council to frustrate the purpose of the contract, such contract shall be canceled and no fee shall be imposed under Section 11. Such contract shall be deemed null and void for all purposes of determining the value of the property so acquired.

Section 14. RIGHTS OF CITY UPON ANNEXATION OF RESTRICTED PROPERTY. In the event that property restricted by a contract with Monterey County under this article is annexed to a city, the city shall succeed to all rights, duties, and powers of the county under such contract.

Section 15. CONSULTATION. The City Council and owners of qualified historical properties may consult with the State Historical Resources Commission for its advice and counsel on matters relevant to historical property contracts.

Section 16. HISTORIC PROPERTY PRESERVATION AGREEMENT. The Preservation Historic Preservation Agreement to be used in the Mills Act is attached as Exhibit "A." Pursuant to Salinas Municipal Code Chapter 2, Article XI, Section 2-71, the City Council hereby delegates to the Community Development Director or his/her designee the authority and responsibility to amend and modify the Preservation Agreement as deemed necessary and appropriate, in consultation with the City Attorney. The terms for the Preservation Agreement shall always comply with California Government Code, Article. 12, Section 50280 et seq. (known as the Mills Act) and Salinas Municipal Code Chapter 2, Article XI, Section 2-71. The maintenance, repair, rehabilitation, and/or restoration standards applicable to the subject property shall be set forth in the Preservation Agreement. In consideration for abiding with the terms of the Preservation Agreement, the owner of the subject property shall be entitled to qualify for a reassessment of the historic property, pursuant to chapter 3, Page 2, of Division 1 of the California Revenue and Taxations Code.

Section 17. EFFECTIVE DATE. The provisions of this resolution shall become effective concurrent with the effective date of the amendment to Salinas Municipal Code Chapter 2, Article XI, Section 2-71.

PASSED AND ADOPTED this ____ day of _____, ____, 2016, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED: _____
Joe Gunther, Mayor

ATTEST: _____
Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

Chris A. Callihan, City Attorney

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Community Development Department
City of Salinas
65 West Alisal Street, 2nd Floor
Salinas, California 93901

SPACE ABOVE THIS LINE FOR RECORDER'S USE

RECORDING REQUESTED PURSUANT
TO GOVERNMENT CODE SECTIONS
6103 and 27383

HISTORIC PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, ____, by and between the CITY OF SALINAS, a municipal corporation (“City”) and _____ (collectively, “Owner”).

RECITALS

A. California Government Code section 50280, et seq. authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so to retain its characteristics as property of historical significance;

B. Owner holds fee title in and to that certain real property, together with associated structures and improvements thereon, generally located at the street address _____, Salinas, California (the “Historic Property”). A legal description of the Historic Property is attached hereto, marked as Exhibit “A” and is incorporated herein by this reference;

C. On ____ (date) the City Council of the City of Salinas (“City Council”) adopted its Resolution No. _____ thereby declaring and designating the Historic Property as an historic site, pursuant to Article XI, Section 2-62 of the City’s Zoning Ordinance. The Historic Property is a qualified historical property pursuant to California Government Code section 50280.1.

D. City and Owner, for their mutual benefit, now desire to enter into this agreement both to protect and preserve the characteristics of historical significance of the Historic Property and to qualify the Historic Property for an assessment of valuation pursuant to the Provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code.

Agreement

NOW THEREFORE, City and Owner, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on January 1, 20__ (“Effective Date”) and shall remain in effect for a term of ten (10) years thereafter. Each year upon the anniversary of the Effective Date, such initial term will automatically be extended as provided in paragraph 2, below.

2. Renewal. On each anniversary of the Effective Date (hereinafter referred to as the “Renewal Date”), an additional one year term shall automatically be added to the term of this Agreement unless a notice of nonrenewal (“Notice of Nonrenewal”) is served as provided herein. If either Owner or City desires in any year not to renew this Agreement for an additional one-year term, Owner or City shall serve a written Notice of Nonrenewal upon the other party in advance of the Renewal Date. Such Notice of Nonrenewal shall be effective if served by Owner upon City at least ninety (90) days prior to the Renewal Date, or if served by City upon Owner, such Notice of Nonrenewal shall be effective if served upon Owner at least sixty (60) days prior to the Renewal Date. If either City or Owner timely serves a Notice of Nonrenewal in any year, this Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal date of this Agreement, whichever may apply.

2.1 Owner Protest of City Nonrenewal. Within fifteen (15) days after receipt by Owner of a Notice of Nonrenewal from City, Owner may make and file a written protest of the Notice of Nonrenewal. Upon receipt of such protest the City Council shall set a hearing prior to the expiration of the Renewal Date of this Agreement. Owner may furnish the City Council with any information which the Owner deems relevant, and within ten (10) days after demand shall furnish the City Council with any information the City Council may require. The City Council may, at any time prior to the Renewal Date of this Agreement, but without obligation to do so, withdraw its Notice of Nonrenewal.

3. Assessment of Valuation. The parties acknowledge that Owner, in consideration for abiding by the terms of this Agreement, shall be entitled to apply for a reassessment evaluation of the Historic Property pursuant to the provisions of Sections 439 et. seq. of the California Revenue and Taxation Code. Owner acknowledges that tax relief afforded to the Owner pursuant to Chapter 3, Part 2, of Division 1 of the California Revenue and Taxation Code may require negotiation with the Monterey County Assessor’s Office. All tax savings realized by Owner in connection with this Agreement shall be used to preserve, maintain, repair, restore and rehabilitate the Historic Property within twelve (12) months following the tax year in which such tax savings is realized.

4. Standards for Historical Property. Owner shall preserve, repair and maintain the Historic Property and its Character Defining Features (defined below) as a qualified historic property, in no less than equal to the condition of the Historic Property on the Effective Date.

Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation and Restoration, the State Historical Building Code, and the City's Historic Site and Neighborhood Combining Districts section of the City's Zoning Ordinance, as the same may be amended from time to time, and in accordance with the attached ten year schedule of home repair, maintenance and improvement measures prepared by Owner and approved by the City Council, attached hereto as Exhibit "B." Commencing on the fifth anniversary of the Effective Date, and continuing every five (5) years thereafter during the term of this Agreement, Owner shall submit to City an updated ten (10) year schedule of potential home repair, maintenance and improvement measures for the upcoming ten (10) year period, which schedule shall also document all repairs, maintenance, and improvements which have been completed since the Effective Date. Character Defining Features means all historic or other architecturally significant aspects of the Historic Property, including without limitation, the general architectural form, style, materials, design, scale, details, mass, roof line, porch, exterior vegetation and other aspects of the appearance of the exterior and interior of the Historic Property. The Secretary of Interior's Standards for Rehabilitation and Restoration currently in effect (attached hereto and marked as Exhibit "C") shall be incorporated herein by reference and constitute the minimum standards and conditions for the rehabilitation and restoration of the Historic Property. All standards referred to in this Section 4 shall apply to the Historic Property throughout the term of this Agreement. Owner shall not obstruct or obscure the public's ability to view the exterior of the Historic Property from the public right-of-way. Such prohibition shall include, without limitation, a prohibition against the placing of trees, bushes or fences in a location which substantially obscures or obstructs the view from the public right-of-way of the exterior of the Historic Property.

5. Periodic Examinations. Owner shall allow reasonable periodic examination, by prior appointment, of the interior and exterior of the Historic Property by representatives of the Monterey County Assessor, State Department of Parks and Recreation, State Board of Equalization, and/or the City Community Development Department, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

6. Provision of Information of Compliance. Within ten (10) days after request by City, Owner shall furnish City with any and all information requested by the City from time to time which City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.

7. Cancellation. City, following a duly noticed public hearing, as set forth in California Government Code Sections 50285, et seq., may cancel this Agreement if it determines that Owner breached any of the provisions of this Agreement or has allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historic property and such breach is not cured by Owner within thirty (30) days after City gives Owner notice that a breach has occurred. City may also cancel this Agreement if it determines that the Owner has failed to maintain, preserve, restore or rehabilitate the Historic Property in accordance with the terms of this Agreement and such breach is not cured by Owner within thirty (30) days

after City gives Owner notice that a breach has occurred. If this Agreement is canceled because of failure of the Owner to maintain, preserve, restore and rehabilitate the Historic Property as specified above, the Owner shall pay a cancellation fee to the Monterey County Auditor as set forth in Government Code Section 50286 as the same may be amended or replaced from time to time.

8. Destruction. Notwithstanding any provision of this Agreement to the contrary, the Owner may cancel this Agreement without payment of the cancellation fee set forth in Section 7, if the existing single-family residence (the "Structure") on the Historic Property is damaged by fire, earthquake, or other Act of God or accidental cause to the extent (1) the then fair market value of said Structure is reduced by fifty-one percent (51%) or more; or (2) fifty-one percent (51%) or more of said Structure's floor area is destroyed or irreparably damaged; or (3) fifty-one percent (51%) or more of the Structure's Character Defining Features are destroyed or irreparably damaged; or (4) that the cost to the Owner (less any insurance proceeds payable in connection with such damage) to restore the Structure to its prior condition would exceed Ten Thousand Dollars (\$10,000). If the Owner desires to cancel this Agreement under this Section 8, written notice shall be given to the City within ninety (90) days after such damage or destruction occurs.

If the Owner desires to cancel this Agreement due to the circumstances outlined in this Section 8, either party may request a hearing before the City Council to determine (a) the extent of diminution of value, (b) the extent of the damage or destruction to the floor area of the Structure, and/or (c) extent of damage or destruction to the Character Defining Features of the Structure. The City Council may refer any matter relating to (c) to the City's Historic Resources Board for its findings and recommendations.

If Owner does not cancel this Agreement pursuant to this Section within ninety (90) days after damage or destruction occurs, or the damage or destruction does not exceed the thresholds set forth in the first paragraph of this Section, Owner shall have a reasonable time, not to exceed four (4) months, in which to restore the structure to not less than the condition existing prior to such damage or destruction.

9. Enforcement of Agreement. City may specifically enforce, or enjoin the breach of, the terms of this Agreement, if Owner fails to cure any default under this Agreement within thirty (30) days after City gives Owner notice that Owner has breached any of Owner's obligations under this Agreement. If Owner's breach is not corrected to the reasonable satisfaction of the City within thirty (30) days after the notice of breach is given to Owner, then City may, without further notice, declare a default under the terms of this Agreement and bring any action necessary to specifically enforce the obligations of Owner or enjoin any breach under this Agreement, including, but not limited to, bringing an action for injunctive relief against the Owner or such other relief as City may deem appropriate.

City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement upon a default by Owner. All other remedies at law or in equity which are not otherwise provided for in this Agreement shall be available to the City to pursue if there is a default of this Agreement by Owner. No waiver by City or any breach or default under this

Agreement by Owner shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

10. Binding Effect of Agreement; Covenants Running With the Land. The Owner hereby subjects the Historic Property to the covenants, reservations and restrictions as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument. City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that the value of the Owner's legal interest in the Historic Property may be affected thereby. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Historic Property for the benefit of the public and Owner.

11. Cost Reimbursement. Owner shall, within ten (10) days after demand, reimburse City for all reasonable legal fees and costs and all staff time and costs incurred by City in connection with the preparation and review of this Agreement and the administration of the Agreement during the term of this Agreement.

12. Notice. Any notice required to be given by the terms of this Agreement shall be in writing and sent by personal delivery or by United States registered or certified mail, postage prepaid, return receipt requested, addressed as set forth in this Section 12 below at any other address as may be later specified by the parties hereto by notice given in the manner required by this Section 12.

To City:

City of Salinas
65 W. Alisal Street, 2nd Floor
Salinas, CA 93901
Attn: City Community Development Director

To Owner:

Mailed notices shall be deemed delivered three (3) days after the date of posting by the United States Post Office.

13. Notice to Office of Historic Preservation. Owner shall provide written notice of this Agreement and shall provide a copy of this Agreement to the Office of Historic Preservation of the Department of Parks and Recreation of the State of California within six (6) months following the Effective Date.

14. Effect of Agreement. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto or any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause the parties to be considered joint venturers or members of any joint enterprise.

15. Indemnity of City. Owner shall protect, defend, indemnify, and hold City and its elected officials, officers, agents and employees harmless from liability for claims, losses, proceedings, damages, causes of action, liabilities, costs or expense, including reasonable attorneys' fees, which may arise directly or indirectly from the negligence, willful misconduct or breach of this Agreement by Owner or Owner's contractors, subcontractors, agents, employees or other persons acting on Owner's behalf in connection with the Historic Property, or which arise directly or indirectly in connection with Owner's activities in connection with the Historic Property. This Section 15 applies, without limitation, to all damages and claims for damages suffered, or alleged to have been suffered regardless of whether or not the City prepared, supplied or approved any plans, specifications or other documents for the Historic Property.

16. Binding Upon Successors. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties named herein, their heirs, successors, legal representatives, and assigns and all persons acquiring any part or portion of the Historic Property, whether voluntarily or involuntarily, by operation of law or in any manner whatsoever.

17. Legal Costs. If legal proceedings are brought by Owner or City to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorneys' fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

18. Severability. If any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.

19. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of California.

20. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, City shall cause this Agreement to be recorded in the Office of the County Recorder of the County of Monterey, California.

21. Amendments. This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by all of the parties hereto.

22. Captions. Section headings and captions of this Agreement are for convenience of reference only and shall not be considered in the interpretation of any of the provisions of this Agreement.

OWNER:

Dated: _____, 20__

By: _____

Name _____

Dated: _____, 20__

By: _____

Name _____

CITY:

Dated: _____, 20__

CITY OF SALINAS, a municipal corporation

By: _____

Name: _____

Its: _____

Attest:

By: _____

Name: _____

Its: City Clerk

Approved as to Form:

By: _____

Name: _____

Its: City Attorney

Insert Notary Form (2016)

EXHIBIT "A"

LEGAL DESCRIPTION

That certain parcel of land in the City of Salinas, County of Monterey, California, more particularly described as follows:

[to be attached]

EXHIBIT "B"

SCHEDULE OF IMPROVEMENTS
[To Be Attached]

EXHIBIT "C"

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION AND RESTORATION

Rehabilitation:

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Restoration:

1. A property will be used as it was historically or be given a new use that interprets the property's restoration period.
2. Materials and features from the restoration period will be retained and preserved. The removal of materials or alterations of features, spaces and spatial relationships that characterize the period will not be undertaken.
3. Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.
4. Materials, features, spaces and finishes that characterize other historical periods will be documented prior to their alteration or removal.
5. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.
6. Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.
7. Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.
8. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
9. Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
10. Designs that were never executed historically will not be constructed.