



Item No. 3 Town of Atherton

CITY COUNCIL STAFF REPORT – STUDY SESSION

TO: HONORABLE MAYOR AND CITY COUNCIL

THROUGH: GEORGE RODERICKS, CITY MANAGER

FROM: STEPHANIE B. DAVIS, AICP PRINCIPAL PLANNER

DATE: MARCH 3, 2021

SUBJECT: DISCUSSION FOR CONSIDERATION IN DEVELOPING A HISTORICAL EVALUATION/PRESERVATION PROGRAM FOR THE PURPOSES OF CONSIDERING MILLS ACT CONTRACTS IN TOWN.

RECOMMENDATION

It is recommended that the City Council receive a report from staff on the possibility of developing a historical evaluation/preservation program for the purpose of considering Mills Act Contracts in Town, have discussion, and provide direction to staff.

BACKGROUND

In 2020, staff was contacted by a property owner on the feasibility of potentially entering into an agreement for the preservation of a single-family residential property within the Town pursuant to the Mills Act (Government Code § 50280–50290). The Mills Act is a California state law that allows cities to enter into contracts (commonly referred to as Mills Act Contracts) with the property owners of historic buildings and structures. The purpose of Mills Act Contracts is to provide for the continued preservation of a qualified historic property in exchange for a reduction of property taxes. Local jurisdictions typically incorporate their Mills Act Program into their Historic Preservation Program.

The Town does not have a Historic Preservation Program or any other form of a policy document regarding historical preservation practices to use in the consideration for creation of a Mills Act Contract. While the Town does have a Historic Artifact Inventory, prepared in 2006, which identifies a list of registered or potential for registered historical structures and objects, it does not identify any historical buildings, nor does it contain any information or criteria related to a Mills Act Program. The Town's General Plan references several building and structures within Town that have previously been determined to be historically significant, however none are single family residences. These include:

- Watkins/Cartan House
- Water Tower, Holbrook-Palmer Park
- Gen Merrill Carriage House, Holbrook-Palmer Park

- Sacred Hearts Schools Main Building
- Menlo School, Stent Family Hall (Douglass Hall aka Payne-Douglass House)
- Perry Stable
- Caltrain Station, Town Center
- Town Hall (Council Chambers building), Town Center

Staff is seeking Council direction before further evaluating the development of a Historic Preservation Program or a Mills Act Program.

ANALYSIS

Mills Act Law and Contract

The Mills Act is a State Law which acts as an economic incentive program in California for the restoration and preservation of qualified historic buildings by private property owners. It allows participating local governments the authority to enter into contracts with property owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties to receive property tax relief. Each local government establishes their own criteria, application procedures, contract terms and determines how many contracts they will allow in their jurisdiction. The Mills Act Program is administered and implemented directly by local governments; the State Office of Historic Preservation is not a signatory to Mills Act Contracts.

The formal agreement is known as a Mills Act Contract and is executed between the local government and property owner for a minimum of 10 years and recorded against the property. Contracts are automatically renewed each year unless the jurisdiction or property owner elect to not renew. Mills Act Contracts, because they are recorded against the property, are transferred to new owners when the property is sold.

In exchange for a reduction in property taxes, the property owner agrees to restore, maintain, and protect the property in accordance with specific historic preservation standards and conditions identified in the contract. Periodic inspections by the jurisdiction, or representative of the jurisdiction (such an outside historical preservationist which could be hired by the jurisdiction but paid for by the property owner of the contract) can ensure proper maintenance of the property. These inspections generally happen at 1- to 5-year intervals. The Contract specifies what maintenance or rehabilitation must be done.

For reference, sample Mills Act Contracts from other San Mateo County jurisdictions are found in Attachment 1 and example Historic Preservation Brochure from the City of Belvedere is found in Attachment 3.

Eligible Properties

Only qualified historical properties are eligible for a Mills Act Contract. A qualified historic property is any property listed on any federal, state, county or local register such as the National Register of Historic Places, California Register of Historical Resources, California Historical Landmarks, or State Points of Historical Interest. A property owner can undertake their own steps in nominating a property

at the federal, state or local level. As noted above, the Town's Historical Inventory does not list any buildings as a historic property, only artifacts and other structures.

Property Tax Savings

The savings vary from property to property and are estimated anywhere from 40-60% of the individual assessed tax valuation of a subject property based on age, condition, and local market value factors in accordance with the formula set by state law. In general, properties that have been under the same ownership for a long time (e.g., pre-Prop. 13,) where the property taxes are already low compared to more recently sold homes, will derive less benefit from the Mills Act. The State Board of Equalization provide strict guidelines for County Assessor's to use in assessing properties under the Mills Act (Attachment 2). County Assessors are required to assess all properties annually, thus Mills Act properties may realize slight increases in property taxes each year. Such property tax savings through the Mills Act are intended for property owners to use on preserving and/or restoring their historic property.

Impacts to Jurisdictions

The Mills Act does allow governments to design preservation programs specific to an individual community's needs and priorities. Most cities that have adopted Mills Act Programs note the recognition of the economic benefits of conserving resources, and found the role historic preservation can play in building civic pride, and retaining sense of place and continuity with the community's past. By entering into a contract, the jurisdiction will realize a loss in annual property tax revenue.

Impact to Property Owners

Some potential benefits to property owners are property tax savings – allowing saved monies to be used for the upkeep and maintenance of the historic property. The tax benefit runs with the title and is indefinite as the renewal is automatic until a non-renewal notice is filed. Improvements and modifications to the property will be narrowly limited to the details as specified in any adopted Mills Act Contract. Typically these improvements and modifications are reviewed for consistency with the adopted State Secretary of the Interior's Standards for Rehabilitation (see Attachment 4).

Other Jurisdictions

Most jurisdictions in the region that have approved Mills Act Contracts for properties in their jurisdictions also have an adopted Historical Preservation Ordinance within their Municipal Code. These nearby jurisdictions include: Los Altos, Palo Alto, Redwood City, San Francisco, San Mateo, Santa Clara, Saratoga, South San Francisco, and Sunnyvale. Such Ordinances typically have purpose, intent, and applicability statements, definitions, criteria for designation, application submittal requirements (including such things as a schedule of improvement and maintenance projects) and listed associated processes.

While most jurisdictions approve Mills Act Contracts in the context of a Mills Act Program, San Carlos has approved a Mills Act Contract without an adopted ordinance establishing a Mills Act Program. In this instance, the proposed Mills Act Contract was reviewed for compliance with the

adopted General Plan. The property owners submitted their own historical evaluation, in which the city, at the cost of the applicant, performed a 3rd party peer review and recommendation through preparation of a historical report by a qualified historian and fiscal impact analysis at the cost of the applicant.

The general process found in the consideration of a Mills Act Contract was found to be as follows:

1. A Planning Department application is submitted for a requested Mills Act Contract. The property must be a designated historic resource on either the jurisdictions local register, or at some other state or federal register. Typically, the burden of designating the historic resource is on the property owner who may hire a qualified historian to research the property, prepare a report, and go through any process with the local, state, or federal agency to formalize historical designation.
2. Advisory review is conducted by the jurisdictions Historical Commission (if such Committee exists) and/or Planning Commission for a recommendation.
3. The City or Town Council reviews as the final authority to approve a Mills Act Contract.

Possible Next Step Approaches

In order to move forward to allow for the future consideration of any proposed Mills Act Contract for a private property within Town boundaries, the City Council could consider the following three (3) possible options:

1. Consider developing and adopting a historical evaluation/preservation program with specific criteria that any proposed Mills Act Contract would be reviewed against. Evaluate (any) associated General Plan updates necessary for consistency.
2. Consider individual requests for any proposed Mills Act Contract on a case by case basis.
3. Other such approaches as recommended by the City Council.

Should the Council want to move forward in considering any approach that may allow for a Mills Act Contract to be requested in Town, it is staff's recommendation to explore option (1) as noted above for continuity, clarity, and equity in processing any such request(s) in the future.

POLICY FOCUS

Consideration of further evaluating the possibility of either creating a Town Historical Preservation program or evaluating potential historical properties on a case by case basis could be found to support the following adopted General Plan goals:

- *Goal OSC-4: Protect both publicly and privately held cultural resources from deterioration and/or destruction.*
- *Policy OSC-4.1: Encourage the preservation of both private and public historical resources and artifacts for the benefit of future generations.*

This item has not been reviewed by any of the Town’s subcommittees, nor the Planning Commission. It may be appropriate for the Council to request the Planning Commission study this issue and gather public input.

FISCAL IMPACT

Historic designation of a property within Town has no fiscal impact. However, approval of a Mills Act Contract would reduce the annual property tax collected by the Town. The cost to potentially further study the topic would be included within the annual Planning Department budget. Costs to develop any potential future Ordinance or program could be considered as a budget item in next budget cycle.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town’s electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town’s electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item ___ has or X has not been before a Town Committee or Commission.

- Audit/Finance Committee (meets every other month)
- Bicycle/Pedestrian Committee (meets as needed)
- Civic Center Advisory Committee (meets as needed)
- Environmental Programs Committee (meets every other month)
- Park and Recreation Committee (meets each month)
- Planning Commission (meets each month)
- Rail Committee (meets every other month)
- Transportation Committee (meets every other month)
- Tree Committee (meets each month)

ATTACHMENT

1. Sample Mills Act Contracts – Other San Mateo County Jurisdictions
2. State Board of Equalization Guidelines for County Assessor’s to use in assessing properties under the Mills Act
3. Sample Historic Preservation Brochure – City of Belvedere
4. Secretary of Interior’s Standards for Rehabilitation

ATTACHMENT 1
2019-109322 CONF

11:05 am 12/23/19 AG Fee: 65.00

Count of pages 17

Recorded in Official Records

County of San Mateo

Mark Church

Assessor-County Clerk-Recorder



**Recording Requested By
And When Recorded Mail To:**

City of Redwood City
1017 Middlefield Road
Redwood City, CA 94063
Attn: City Clerk

**CONTRACT BETWEEN REDWOOD CITY AND [REDACTED] FOR
HISTORIC PROPERTY PRESERVATION OF 891 EDGEWOOD ROAD (APN: 052-041-010)**

THIS CONTRACT, is made and entered into this 18 day of December, 2019,
by and between the CITY OF REDWOOD CITY, a charter city and municipal corporation of the
State of California, (hereinafter called "City"), and [REDACTED], (hereinafter
called "Owner(s)").

WITNESSETH:

WHEREAS, California Government Code Sections 50280, *et. seq.* authorize cities to
enter into contracts with the owners of qualified historic property to provide for the use,
maintenance and restoration of such historic property so as to retain its historical significance;

WHEREAS, Owner possesses fee title in and to that certain real property, together with
associated structures and improvements thereon, located at 891 Edgewood Road, Redwood
City, California 94062 (the "Historic Property") (a legal description of the Historic Property is
attached hereto as Exhibit A);

WHEREAS, on December 16, 2019, the City Council of the City of Redwood City
declared and designated the Historic Property as a historic landmark pursuant to the terms and
provisions of Chapter 40 of the Redwood City Code; and

WHEREAS, City and Owner, for their mutual benefit, now desire to enter into this
Contract 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 Article 1.9 of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code.

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 Contract. The term of this Contract shall commence on the date of its recordation (the "effective date"), and shall remain in effect for a term of (10) ten years from such date (the "initial term"). Each year upon the anniversary of the effective date, the initial term will automatically be extended as provided in Section 2 of this Contract. For purposes of this Contract, "term" shall mean the initial term plus all renewal terms added to the initial term pursuant to Section 2 of this Contract.

2. Renewal. Each year on the anniversary of the effective date of this Contract (hereinafter referred to as the "renewal date"), a year shall automatically be added to the initial term of this Contract (each such year a "renewal term") unless (a) a notice of nonrenewal has been received pursuant to Section 3 below or (b) the Contract has been sooner terminated in accordance with the provisions herein.

3. Notice of Nonrenewal.

a) If either Owner or 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 such notice is served by Owner to City at least ninety (90) days prior to the annual renewal date, or served by City to Owner at least sixty (60) days prior to the annual renewal date, one (1) year shall be automatically added to the term of the Contract pursuant to Section 2 of this Contract.

b) Upon receipt by Owner of a notice of nonrenewal from City, Owner may make a written protest of the notice of nonrenewal. City may, at any time prior to the renewal date, withdraw the notice of nonrenewal.

c) If either City or 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.

4. Standards for Historical Property. During the term of this Contract, the Historic Property shall be subject to the following conditions, requirements and restrictions:

a) Owner shall, at Owner's own cost and expense, complete, or cause to be completed, the work or improvements described in the attached Schedule of Improvements, attached hereto as Exhibit B, according to certain standards and requirements. Such standards and requirements shall include, but not be limited to: City's Minimum Maintenance Standards for Historic Properties, attached hereto as Exhibit C (the "City Minimum Standards"); the Secretary of the Interior's Standards for the Treatment of Historic Properties, attached hereto as Exhibit D (the "Secretary's Standards"); the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation ("OHP Rules and Regulations"); the State Historical Building Code as determined applicable by City; Chapter 40 of the Redwood City Code; all applicable building safety standards; and the requirements of City's Planning Manager, Historic Resources Advisory Committee, Planning Commission and City Council. All enumerated work or improvements will be completed by December 31 of the year for which such work or improvement is listed in Exhibit B, provided however that City may, in its sole discretion, extend the deadline for completion of any such work or improvement. The Owner shall secure any and all permits which may be required by City or any other governmental agency affected by the construction of the work or improvements. Owner accepts responsibility for and shall be responsible for identification of and compliance with all applicable laws pertaining to the construction and installation of the work or improvements described on Exhibit B and the contract or

contracts pertaining thereto. Owner will not seek to hold nor hold City liable for, and will hold City harmless with respect to, any consequences of any failure by Owner to correctly determine the applicability of any such requirements to any contract into which Owner enters. For the sake of clarity, though the timeline contained in Exhibit B only runs through 2029, Owner shall continue to be bound by the requirements of Section 4(b) of this Contract through the entire term of this Contract, including any renewal terms.

b) Owner shall maintain and preserve the Historic Property and its character defining features throughout the term of this Contract according to certain standards and requirements. Such standards and requirements include the City Minimum Standards; the Secretary's Standards; the OHP Rules and Regulations; the State Historical Building Code as determined applicable by City; Chapter 40 of Redwood City Code; all applicable building safety standards; and the requirements of City's Planning Manager, Historic Resources Advisory Committee, Planning Commission and City Council. Character defining features include, but are not necessarily limited to, the general architectural form, style, materials, design, scale, details, mass, roof line and other aspects of the appearance of the exterior and interior of the Historic Property. All maintenance and preservation required by this paragraph shall be performed at Owner's own cost and expense.

c) Owner shall, whenever necessary throughout the term of this Contract, restore and rehabilitate the Historic Property to conform to the City Minimum Standards; the Secretary's Standards; the OHP Rules and Regulations; the State Historical Building Code as determined applicable by City; Chapter 40 of the Redwood City Code; all applicable building safety standards; and the requirements of City's Planning Manager, Historic Resources Advisory Committee, Planning Commission and City Council. All

restoration and rehabilitation required by this paragraph shall be performed at Owner's own cost and expense.

d) Owner shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County Assessor for the County of San Mateo, the California Department of Parks and Recreation, the California Board of Equalization, the Historic Resources Advisory Committee, City, and any other appropriate governmental agency, as may be necessary to determine owner's compliance with the terms and provisions of this Contract. In any event, there shall be at least one inspection every five years by City's Planning Manager and his/her designee. The first such inspection must occur within five years of the date of this agreement.

e) Owner agrees to provide City with a report as to the status of the Historic Property annually by January 31 of each year, which annual report shall provide substantiation reasonably satisfactory to City's Planning Manager that Owner is in compliance with the Contract. Such annual report will be on a form approved by the City's Planning Manager and furnished to Owner by City.

f) Owner hereby agrees to and will comply with all applicable local, state, and federal statutes, regulations, rules, codes (including building codes), ordinances, and other requirements of governmental authorities now or hereafter in effect ("Applicable Laws") pertaining to the use of the Historic Property. Owner must give City immediate written notice on Owner's becoming aware that the use or condition of the Historic Property is in violation of any Applicable Law.

g) Owner or agent of Owner shall provide written notice of the contract to the California Office of Historic Preservation within six (6) months of entering into this Contract.

5. Provision of Requested Information. Owner hereby agrees to furnish City with any and all information requested by City which may be necessary or advisable to determine compliance with the terms and provisions of this Contract.

6. Cancellation for Breach. City, following a duly noticed public hearing pursuant to California Government Code Sections 50280, *et. seq.*, may cancel this Contract if it determines that Owner breached any of the conditions of this Contract or that the property has changed to the point that it no longer meets the standards for a qualified historic property. In the event of cancellation, Owner may be subject to payment of those cancellation fees set forth in California Government Code Sections 50280, *et. seq.*

7. Enforcement of Contract. As an alternative to cancellation of the Contract for breach of any condition, City may bring an action to enforce this Contract. In the event of a default under the provisions of this Contract by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in this Contract. If such a violation is not corrected to the reasonable satisfaction of City within thirty (30) days thereafter or is not corrected within such reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach or default must be commenced within thirty (30) days and must thereafter be diligently pursued to completion by Owner), then City may, without further notice, declare a default under the terms of this Contract. Upon declaring such a default, City may bring any action necessary to specifically enforce the obligations of Owner growing out of the terms of this Contract; apply to any court, state or federal, for injunctive relief against any violation by Owner; or apply for such other relief as may be appropriate. City does not need to comply with the provisions of this paragraph if canceling the Contract pursuant to Section 6 of this Contract.

City does not waive any claim of default by Owner if City does not enforce or cancel this Contract. All other remedies at law or in equity which are not otherwise provided for in this Contract or in City's regulations, governing historic properties are available to City to pursue in

REV: 10-07-19 PR

the event that there is a breach or default under this Contract. No waiver by City of any breach or default under this Contract shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

8. Binding Effect of Contract. Owner hereby subjects the Historic Property to the covenants, reservations and restrictions as set forth in this Contract. 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 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 Contract 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 Owner's legal interest in the Historic Property is rendered less valuable 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.

9. Binding On Successors In Interest. All of the Contracts, rights, covenants, reservations and restrictions contained in this Contract shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

10. Indemnification. Owner shall indemnify, defend, and hold harmless the City of Redwood City and all of its boards, commissions, committees, departments, agencies, agents and employees (for purposes of this Section 10, individual and collectively, "City") from and against any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses incurred in connection with or arising in whole or in part from: (a) any accident, injury to or death of a person, loss of or damage to property occurring in or about the Historic Property; (b) the use or occupancy of the Historic Property by Owner, Owner's Agents or Invitees; (c) the condition of the Historic Property; (d) any construction or other work undertaken by Owner on the Historic Property; or (e) any claims by unity or interval owners for property tax reductions in excess of those provided for under this Contract. This indemnification shall include, without limitation, reasonable fees for attorneys, consultants, and experts and related costs that may be incurred by City and all indemnified parties specified in this Section and City's cost of investigating any claim. In addition to Owner's obligation to indemnify City, Owner specifically acknowledges and agrees that Owner has an immediate and independent obligation to defend City from any claim that actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false, or fraudulent, which obligation arises at the time such claim is tendered to Owner by City, and continues at all times thereafter. Owner's obligations under this Section shall survive termination of this Contract.

11. Property Insurance. Owner shall maintain during the life of this Agreement a homeowner's insurance policy.

12. Status of Parties. None of the terms, provisions or conditions of this Contract shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint venturers or members of any joint enterprise.

13. California Law. This Contract shall be construed and governed in accordance with the laws of the State of California.

14. Notice. Any notice required to be given by the terms of this Contract shall be given in writing and delivered personally or by depositing the same with the U.S. Postal Service, first class (or equivalent) postage prepaid, addressed to the respective parties as specified below or at such other address as may be later specified by them.

CITY:

City of Redwood of Redwood City
Attn: City Manager
1017 Middlefield Road
Redwood City, CA 94063

OWNER(S):


891 Edgewood Road
Redwood City, CA 94062

15. Severability. In the event that any of the provisions of this Contract 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 provision, or portions thereof, shall not be effected thereby.

16. Amendments. This Contract may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto.

17. Recordation. No later than twenty (20) days after the parties execute and enter into this Contract, City shall cause this Contract to be recorded in the office of the County Recorder of the County of San Mateo.

18. Incorporation of Exhibits by Reference. All exhibits referenced in this Contract and attached hereto are hereby incorporated into this Contract by reference.

19. Section Headings. Section headings as used herein are for convenience only and shall not be deemed to be a part of such sections and shall not be construed to change the meaning thereof.

IN WITNESS WHEREOF, City and Owner have executed this Contract on the day and year first written above.

CITY OF REDWOOD CITY,
a charter city and municipal corporation
of the State of California

By: Melissa Stevenson Diaz
Melissa Stevenson Diaz, City Manager

ATTEST:

Pamela Aguilar
Pamela Aguilar, City Clerk

OWNER(S):

By: [Redacted]

Printed Name: [Redacted]

Title: owner

By: [Redacted]

Printed Name: [Redacted]

Title: owner

STATE OF CALIFORNIA
COUNTY OF SAN MATEO

On this ___ day of _____, before me, _____, a Notary Public, personally appeared Melissa Stevenson Diaz, personally known to me to be the City Manager of the City of Redwood City, a municipal charter corporation of the State of California, and Silvia Vonderlinden, personally known to me to be the City Clerk of the City of Redwood City, a municipal charter corporation of the State of California, and said persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument, the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

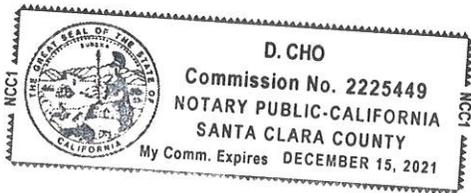
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF ~~SAN MATEO~~ ^{(D.C.) Santa Clara}

On this 4th day of November 2019, before me, D. Cho, a Notary Public, personally appeared _____ personally known to me/proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



D. Cho
Notary Public

STATE OF CALIFORNIA
COUNTY OF SAN MATEO

On this ___ day of _____, before me, _____, a Notary Public, personally appeared _____, personally known to me/proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

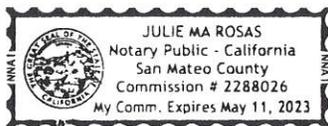
WITNESS my hand and official seal.

Notary Public

STATE OF CALIFORNIA
COUNTY OF SAN MATEO

On this 18 day of December 2019, before me, Julie Ma Rosas, a Notary Public, personally appeared Melissa Stevenson Diaz, personally ~~known to me~~ proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Julie Ma Rosas
Notary Public

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of San Mateo }

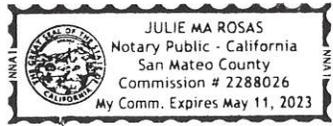
On December 18, 2019 before me, Julie M. Rosas, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Melissa Stevenson Diaz
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal and/or Stamp Above

Signature Julie M. Rosas
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: CONTRACT - HISTORIC PROPERTY PRESERVATION - 891 Edgewood Rd
Document Date: December 18, 2019 Number of Pages: 15
Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name:
[] Corporate Officer - Title(s):
[] Partner - [] Limited [] General
[] Individual [] Attorney in Fact
[] Trustee [] Guardian or Conservator
[] Other:
Signer is Representing:

EXHIBIT "A"

LEGAL DESCRIPTION

For APN/Parcel ID(s): 052-041-010

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF REDWOOD CITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOT 1 IN BLOCK 4 AS SHOWN ON THAT CERTAIN MAP ENTITLED "EDGEWOOD PARK, REDWOOD CITY, CALIFORNIA", FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN MATEO COUNTY ON JUNE 22, 1925 IN BOOK 12 OF MAPS AT PAGES 41 AND 42.

EXHIBIT "B"

SCHEDULE OF IMPROVEMENTS

<u>YEAR</u>	<u>IMPROVEMENT</u>
2020	Repair or replace broken masonry wall facing Edgewood Road; replace damaged irrigation system to support heritage trees and landscaping; Repair rafting in right side (if facing the face) of the front exterior
2021	Complete Seismic retrofit
2022	Repair cracks and voids in the garage walls with appropriate material
2023	Repair or replace fungal or termite damaged wood trim/members at the front porch overhang, front porch railing and back porch overhang, back porch railing
2024	Power wash building. Maintain building as needed. Clean roof and gutters
2025	Paint the exterior of the house, as required, to maintain original stucco appearance
2026	Maintenance of heritage trees and landscaping as necessary
2027	Repair/replace gutters at the back of the house
2028	Inspect, repair and restore roof, as necessary (replace with compatible tiles)
2029	Restore exterior iron windows to maintain original aesthetic

EXHIBIT "C"

CITY OF REDWOOD CITY MINIMUM MAINTENANCE STANDARDS FOR HISTORIC PROPERTIES

Property Maintenance. All buildings, structures, yards and other improvements shall be maintained in a manner, which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls, windows;
2. Scrap lumber, junk, trash or debris;
3. Abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers, or similar items;
4. Stagnant water or excavations, including pools or spas;
5. Any device, decoration, design, structure or vegetation, which is unsightly by reason of its height, condition, or its inappropriate location.

EXHIBIT "D"

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

Summary

1. A property shall be used for its historic purpose or placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall 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 architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historical materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall 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.

**Recording at the request of and
when recorded please mail to:**

Crystal Mui, City Clerk
City of San Carlos
600 Elm Street
San Carlos, CA 94070

HISTORICAL PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered this _____ day of December 2013, by and between the CITY OF SAN CARLOS, a municipal corporation (hereinafter referred to as the "City"), and [REDACTED] (hereinafter referred to as the "Owner") for property located at 40 Pine Avenue, San Carlos, CA (APN 049-353-240).

RECITALS

WHEREAS, California Government Code Section 50280, et seq., referred to as the Mills Act, allows cities the discretion to enter into contracts with the owners of qualified historical properties, as the term is defined by Government Code Section 50280.1, for the purpose of restricting development of its cultural and historic significance and continuing maintenance of the historical property;

WHEREAS, Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, located at the street address 40 Pine Avenue, San Carlos, California, 94070 (Assessor Parcel Number 049-353-240), (hereinafter referred to as the "Historical Property"). A legal description of the Historical Property is attached hereto and incorporated herein by this reference as Exhibit A;

WHEREAS, the San Carlos City Council has designated the Historical Property as a Historic Site and is so listed listing in the "City of San Carlos Historic Resources Inventory";

WHEREAS, on December 9, 2013 the City Council of the City of San Carlos adopted Resolution No. _____ thereby declaring its intention to enter into this Historic Property Preservation Agreement.

WHEREAS, the City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of cultural and historic significance of the Historical Property and to qualify the Historical Property for an assessment of valuation pursuant to the provisions of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code, and of Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of the California Government Code (and as amended from time to time).

NOW THEREFORE, the City and Owner, in consideration of the mutual promises, 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, 2014 and shall remain in effect for a term of ten (10) years thereafter. Each year, upon the anniversary of the effective date of this Agreement (hereinafter "renewal date"), one (1) year shall automatically be added to the term of the Agreement, unless timely notice of nonrenewal, as provided in paragraph 2, is given. If either City or Owner serves notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.
2. Notice of Nonrenewal. If City or Owner desires in any year not to renew the Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of the contract as follows: (1) Owner must serve written notice of nonrenewal at least ninety (90) days prior to the renewal date or (2) City must serve written notice within sixty (60) days prior to the renewal date. Owner may make written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice of nonrenewal to Owner.
3. Valuation of Historical Property. During the term of this Agreement, Owner is entitled to seek assessment of valuation of the Historical Property pursuant to the provisions of Article 1.9, Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.
4. Standards for Historical Property. During the term of this Agreement, the Historical Property shall be subject to the following conditions, requirements, and restrictions:
 - (a) Owner shall preserve and maintain the characteristics of cultural and historical significance for Historical Property in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the minimum maintenance standards, identified in Exhibit B, attached hereto, which shall apply to the Historical Property throughout the term of this Agreement. New additions, exterior alterations, or related construction shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
 - (b) Owner shall make improvements to bring Historical Property into good condition. Attached hereto, marked as Exhibit C, and incorporated herein by this reference, is a list of work that both the City and Owner agree is necessary to bring the property into good condition.

- a. Owner shall undertake all improvements in accordance with Exhibit C. If the schedule set out in Exhibit C is not complied with, then City will use the following process to determine whether the Owner is making good faith progress on the schedule of work. Upon City's request, the Owner shall submit documentation of expenditures, made to accomplish the next highest priority improvement project for the property, within the last 24 months. The Owner shall be determined to be in substantial compliance when the expenditures are equal to or greater than the property tax savings provided by the Historical Property under the Mills Act. This schedule set out in Exhibit C shall be revised to reflect the schedule change. The Community Development Director of the City of San Carlos shall have the ability to administratively adjust the schedule timeline, in concurrence with the Owner, only by written recorded instrument executed by the parties hereto.
5. Inspections and Annual Reporting. Owner agrees to permit the periodic examination, by prior appointment of the interior and exterior of the Historic Property by the County Assessor, the State Department of Parks and Recreation, the State Board of Equalization and the City of San Carlos as may be necessary to determine the Owner's compliance with the terms and provisions of this Agreement. Owners agree to provide the City with a report as to the status of the Historic Property annually and when any improvements or changes have been made.
6. Provision of Information. Owner hereby agrees to furnish City with any and all information requested by the City of San Carlos which City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.
7. Cancellation by City. The City, following a duly noticed public hearing as set forth in California Government Code Section 50285 may cancel this Agreement if it determines that the Owner has breached any of the conditions of this Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. City may also cancel this Agreement if it determines that Owner has failed to restore or rehabilitate the Historical Property in the manner specified in paragraph 4 of this Agreement.

In the event of cancellation, Owner shall be subject to payment of those cancellation fees set forth in Government Code Sections 50280 et seq., described herein. Upon cancellation, Owner shall pay cancellation fee of twelve and one-half percent (12 ½%) of the current fair market value of the Historical Property at the time of cancellation, as determined by the county assessor as though the Historical Property were free of any restrictions pursuant to this Agreement.

8. Enforcement of Agreement. In lieu of any provisions to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default, under the provisions of this Agreement by Owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in the Agreement, and if such a

violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default is said breach or default cannot be cured within thirty (30) days provide that acts to cure the breach or default may be commenced within thirty (30) days and must thereafter be diligently pursued to completion by Owner, then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of the Owner growing out of the terms of this Agreement, may apply to any violation by Owner or apply for such other relief as may be appropriate.

9. Waiver. City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

10. Binding Effect of Agreement. Owner hereby subjects the Historical Property described in Exhibit A hereto 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 Historical Property.

Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historical 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 it restricts development of the Historical Property. 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 cultural and historic characteristics and significance of the Historical Property for the benefit of the public and Owner.

11. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below, or at any other address as may later be specified by the parties hereto:

City: City of San Carlos
600 Elm Street
San Carlos, CA 94070

Owner: [REDACTED]
40 Pine Avenue
San Carlos, CA 94070

12. General Provisions

- a. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or member of any joint enterprise.
- b. Owner agrees to and shall hold City and its elected officials, officers, agents and employees harmless from liability or damage or claims which may arise from the direct or indirect use or operations of Owner or those of their contractor, subcontractor, agenda, employee or other person acting on his/her behalf which relates to the use, operation and maintenance of the Historical Property and from any injury to property caused by the restrictions on development of the Historical Property from application or enforcement of this Agreement. Owner hereby agrees to and shall defend the City and its elected officials, officers, agents and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner's activities in connections with the Historical Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied or approved this plans, specifications or other documents for the Historical Property.
- c. 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 herein, their heir, successors, legal representatives, assigns and all persons acquiring any part of portion of the Historical Property, whether by operation of law or in any manner whatsoever.
- d. In the event legal proceedings are brought by any party or parties to enforce or retrain a violation of any of the covenants, reservations and restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.
- e. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court or competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.
- f. This Agreement shall be constructed and governed in accordance with the laws of the State of California.

13. Recordation. No later than 20 days after the parties execute and enter into this Agreement, the City shall cause the Agreement to be recorded in the office of the County Recorder of the County of San Mateo.

- 14. Notice to State Office of Historic Preservation. The Owner or Agent of the Owner shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.
- 15. Eminent Domain. In the event that property subject to Agreement 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 Agreement, such Agreement shall be canceled and no cancellation fee shall be imposed under. Such Agreement shall be deemed null and void for all purposes of determining the value of the property so acquired.
- 16. Amendments. This Agreement may be amended, in whole or in part, only be written recorded instrument executed by the parties hereto.

IN WITNESS WHEREOF, the City and Owner have executed this Agreement on the date first written above.

OWNER

Dated: _____

[Redacted Signature]

CITY OF SAN CARLOS

Dated: _____

By: Jeff Maltbie, City Manager

APPOVED AS TO FORM

Greg Rubens, City Attorney



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
 PROPERTY AND SPECIAL TAXES DEPARTMENT
 450 N STREET, SACRAMENTO, CALIFORNIA
 PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0064
 916 445-4982 • FAX 916 323-8765
 www.boe.ca.gov

BETTY T. YEE
 Acting Member
 First District, San Francisco

BILL LEONARD
 econd District, Sacramento/Ontario

CLAUDE PARRISH
 Third District, Long Beach

JOHN CHIANG
 Fourth District, Los Angeles

STEVE WESTLY
 State Controller, Sacramento

RAMON J. HIRSIG
 Executive Director

No. 2005/035

June 2, 2005

O COUNTY ASSESSORS AND INTERESTED PARTIES:

NOTICE OF BOARD ACTION

**GUIDELINES FOR THE ASSESSMENT OF
 ENFORCEABLY RESTRICTED HISTORICAL PROPERTY**

On May 25, 2005, the Board of Equalization approved the following guidelines pertaining to the assessment of enforceably restricted historical property. These guidelines supersede Letter To Assessors No. 77/174 (dated December 19, 1977).

On June 8, 1976, the voters of California approved Proposition 7 which amended section 8 of article XIII of the California Constitution. This amendment requires that enforceably restricted historical property be valued on a basis that is consistent with its restrictions and uses. Sections 439 through 439.4 were added to the Revenue and Taxation Code to implement Proposition 7. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

Staff drafted these guidelines in consultation with interested parties and, after discussions, no issues remained unresolved. The guidelines discuss the enforceably restricted historical property requirements, the income to be capitalized, the capitalization rate, the effect of Proposition 13 upon enforceably restricted historical properties that undergo change in ownership or new construction, and the valuation of property under notice of nonrenewal.

The guidelines are posted on the Board's website at www.boe.ca.gov/proptaxes/guideproc.htm. We hope this information proves useful and promotes uniformity of assessment for these properties. If you have any questions, please contact our Real Property Technical Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
 Deputy Director
 Property and Special Taxes Department

DJG:grs
 Enclosure

GUIDELINES FOR THE ASSESSMENT OF ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

HISTORY

Effective March 7, 1973, Chapter 1442 of the Statutes of 1972 (also known as the Mills Act) added sections 50280 through 50289 to the Government Code to allow an owner of qualified historical property to enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics.

Prior to the passage of Proposition 7 in 1976, these agreements (i.e., Mills Act contracts) constituted enforceable restrictions on the use of land within the meaning of Revenue and Taxation Code section 402.1¹ (Property Tax Rule 60, repealed January 10, 1978). However, Proposition 7 added the second paragraph to section 8 of article XIII of the California Constitution:

To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.

To implement Proposition 7, Chapter 1040 of the Statutes of 1977 (Senate Bill 380) added sections 439 through 439.4 to the Revenue and Taxation Code. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

Under section 439, historical property is "enforceably restricted" if it meets the definition of a "qualified historical property" as defined in Government Code section 50280.1 and is subject to a historical property contract executed pursuant to Government Code section 50280 and following. A qualified historical property includes qualified historical improvements and the land on which the improvements are situated, as specified in the historical property contract. If the contract does not specify the land to be included, the qualified historical property includes only a land area of reasonable size to situate the improvements.

A qualified historical property is privately-owned property that is not exempt from property taxation and that also meets either of the following criteria:

- The property is listed in the National Register of Historic Places, or is located within a registered historic district; or

¹ Unless otherwise noted, all statutory references are to the Revenue and Taxation Code.

- The property is listed in any official state, county, city, or city and county official register of historical or architecturally significant sites, places or landmarks, including the California Register of Historical Resources, California Historical Landmarks, State Points of Historical Interest, local landmarks, and local survey listings of historical properties.

The historical property contract must have a minimum term of ten years, and, as applicable, must contain certain other elements, including the following:

- A provision relating to the preservation of the qualified historical property and, when necessary, the restoration and rehabilitation of the property in conformance with state historic preservation guidelines;
- A requirement for the periodic examination of the property to ensure compliance with the agreement;
- A requirement that the historical property agreement be binding upon successor owners of the qualified historical property; and
- A provision for an automatic one-year extension of the contract, with an additional year added to the initial contract term on each anniversary of the contract, unless either party provides notice of nonrenewal. If a notice of nonrenewal is given, the contract runs for its remaining term.

Once a contract is signed, accepted, and recorded, the property subject to the contract must be assessed under section 439.2 on the ensuing lien date. For example, if a contract were recorded in August 2004, the property should have been valued pursuant to section 439.2 for lien date January 1, 2005.

Local authorities may cancel a historical property agreement for breach of contract or failure to protect the historical property. Alternatively, the local entity may take legal action to enforce the contract.

ASSESSMENT

The assessment of an enforceably restricted historical property involves the following aspects:

(1) valuing the restricted historical property; (2) properly applying certain assessment provisions relating to article XIII A of the California Constitution (Prop 13); (3) valuing the restricted historical property following a notice of nonrenewal; and (4) valuing the restricted historical property following cancellation of the contract.

Valuing the Restricted Historical Property

Section 439.2 prohibits the assessor from using sales data relating to similar properties, whether or not enforceably restricted, to value an enforceably restricted historical property. Instead, the assessor must annually value a restricted historical property using an income approach that

follows the specific provisions of section 439.2. These provisions explicitly address (1) the determination of the income to be capitalized, (2) the development of the capitalization rate, (3) the capitalization technique to be used, and (4) the determination of the restricted historical property's taxable value on each lien date.

Income to be Capitalized

As provided in section 439.2(a), the income to be capitalized when valuing a restricted historical property is the property's fair rent less allowed expenditures, or allowed expenses. In general, section 439.2(a) follows Property Tax Rule 8(c), with fair rent in section 439.2 corresponding to gross return in Rule 8(c); allowed expenditures, or allowed expenses, in section 439.2 corresponding to gross outgo in Rule 8(c); and the income to be capitalized in section 439.2 corresponding to net return in Rule 8(c). In addition, for the purposes here, "gross income" is synonymous with fair rent, and "net operating income" is synonymous with the income to be capitalized.

The parties to a historical property agreement may stipulate a minimum annual income to be capitalized, in which case the income to be capitalized may not be less than the stipulated amount.

Fair rent, or gross income. The gross income of a restricted historical property is the fair rent for the property considering the restrictions on the property's use. When establishing the fair rent for a restricted historical property, the appraiser should consider the actual rent and typical rents in the area for similar properties in similar use, where the owner pays the property taxes.

The actual rent received by the owner of the subject restricted historical property is relevant to an estimate of fair market rent only if the actual rent is the same rent that would be expected if the existing lease were renegotiated in light of current market conditions, including the subject property's enforceable restrictions on use. With respect to rents from similar, or comparable, properties, if such rents are from properties outside the geographic or market area of the subject property, or from properties that are otherwise dissimilar to the subject property, the rents may not be relevant to an estimate of the subject property's fair rent.

Comparable rental data for single-family residences can be obtained from real estate brokers, rental agencies, and newspaper ads. Many assessors offices maintain rental data for commercial properties, and this data may be helpful when establishing the fair rent for restricted historical property when the contract allows a commercial use. Rental data for commercial property also can be obtained from commercial real estate brokers. For the purpose of estimating anticipated market fair rent and expenditures for use in calculating the subject property's value, rental and expense data for existing restricted historical properties, including the subject historical property, can be obtained through an annual questionnaire sent to property owners.

If sufficient rental data are not available, or such data are unreliable, the appraiser must impute a gross income for the subject restricted historical property. The imputed income should be based on what an informed investor would reasonably expect the property to yield under prudent management, given the provisions under which the property is enforceably restricted.

Allowed expenditures. Section 439.2(a)(3) defines allowed expenditures, or allowed expenses, as expenses necessary for the maintenance of the property's income. Allowed expenses are the same as those permitted in Property Tax Rule 8(c).

Typical expenses include the cost of utilities, maintenance and repair, insurance and property management. Allowed expenses also may include amounts owing for special assessments and special taxes. Expenses related to debt service, general property taxes, and depreciation should not be deducted.

In general, to arrive at the net income to be capitalized, allowed expenses are subtracted from the estimated rental income. However, in order to properly process the income, the appraiser must be aware of the structure of the lease with regard to how expenses are shared between the landlord-owner and the tenant.

The proper perspective from which to view the processing of income and expenses is that of the landlord-owner. The objective is to estimate the net income to the landlord-owner—this is the amount that should be capitalized—and the correct question to ask is the following: What, if any, allowed expenses must the landlord-owner pay out of the rental income that he or she receives?

In a gross lease, almost all of the allowed expenses must be paid out of the gross rent and, therefore, must be subtracted from the gross rent to arrive at the net income to be capitalized. In a net lease, relatively few allowed expenses must be paid by the landlord-owner out of the net rent (because the tenant pays most expenses) and only these expenses should be subtracted from the net rent to arrive at the net income to be capitalized. Frequently, there is a hybrid arrangement—some expenses are paid by the landlord-owner and some by the tenant. How expenses are shared often depends upon the property type together with local conventions.

Income to be capitalized, or net operating income. The income to be capitalized, or net operating income, is simply the fair rent, or gross income, described above less the allowed expenditures described above.

Capitalization Rate

The method of developing the capitalization rate to be used when valuing restricted historical property is prescribed by statute; a capitalization rate derived from sales data or the band of investment is not permitted.

Section 439.2 prescribes two types of capitalization rates for restricted historical property: (1) a capitalization rate to be used when valuing restricted historical property that is an owner-occupied single-family residence and (2) a capitalization rate to be used when valuing all other restricted historical property. Both types of capitalization rates include components for interest (i.e., yield), risk, property taxes, and amortization of improvements; in fact, the two rates are identical except for the amount of the risk component. The capitalization rate contains the following components:

- An interest component annually determined by the State Board of Equalization and based on the effective rate on conventional mortgages as determined by the Federal Housing Finance Board. The interest component is announced annually, in a Letter To Assessors, by October 1 of the preceding assessment year.
- A historical property risk component determined by property type. For owner-occupied single-family residences, the rate is 4 percent; for all other types of restricted historical property, the rate is 2 percent.
- An amortization component for improvements defined as a percentage equal to the reciprocal of the remaining life of the improvements (e.g., if the remaining economic life of the improvements were 20 years, the amortization component would be 5 percent). Since the amortization component applies only to improvements, not to land, which is a non-depreciating asset, it is necessary to adjust the amortization component described in the statute. We recommend the following method of adjustment:
 1. Based upon market data, estimate the percentage of total property value attributable to improvements.
 2. Multiply this percentage by the amortization component described in the statute (i.e., by the reciprocal of the remaining life of the improvements). For example, if the remaining life of the improvements was 20 years, yielding a reciprocal percentage of 5 percent, and if 70 percent of the total property value was attributable to the improvements, the adjusted amortization factor would be 3.5 percent ($0.05 \times 0.70 = 0.035$).
 3. Add the adjusted amortization component to the other capitalization rate components to arrive at the total capitalization rate.
- A property taxes component equal to the percentage of the estimated total tax rate applicable to the property for the assessment year multiplied by the assessment ratio. Typically, the property tax component includes the basic tax rate of 1 percent plus an additional ad valorem rate related to any bonded indebtedness pertaining to the tax rate area in which the property is located. Special district assessments and special taxes are not included in the property tax component. As noted above, they should be treated as allowed expenses.

Capitalization Technique

The capitalization technique to be used when valuing a restricted historical property is prescribed by statute and is formulaic. Section 439.2(e) provides that the restricted value shall be the income to be capitalized, or net operating income, developed as prescribed by statute, divided by one of the two types of capitalization rates prescribed by statute. In other words, the restricted value is the simple quotient of the prescribed income to be capitalized and the prescribed capitalization rate.

Determination of Taxable Value on Each Lien Date

Section 439.2(d) provides that a historical property's restricted value may not be enrolled if it exceeds either (1) the value of the subject property as determined under section 110 (i.e., current market value) or (2) the value of the subject property as determined under section 110.1 (i.e., factored base year value). In other words, section 439.2 states that the taxable value of a restricted historical property on each lien date shall be the lowest of its restricted value, current market value, or factored base year value. The factored base year value for an enforceably restricted historical property is the value that was established for the 1975 lien date² or as of the date of the most recent change in ownership, whichever is later, adjusted by the annual inflation factor.

Article XIII A (Prop 13) Considerations

This section discusses how three important elements relating to implementation of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment of restricted historical property. Also discussed is the case in which only a portion of a property is subject to the historical property agreement—that is, the case in which a single property unit contains both restricted and unrestricted portions.

Change in Ownership

When a property subject to a historical property contract undergoes a change in ownership, a new base year value should be established for the property as of the date of change in ownership, as provided in section 110.1. Typically, a restricted historical property's base year value will be greater than its restricted value determined under section 439.2 and hence will not be enrolled as the property's taxable value. However, the establishment of a new base year value enables the assessor to perform the three-way value comparison prescribed by section 439.2(d) and described above. The establishment of a base year value is also necessary in order to calculate the assessed values of historical property should the historical property agreement enter nonrenewal status.

New Construction

Section IV of National Register Bulletin #15 defines a "building" as follows:

A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

Section IV further specifies that "[b]uildings eligible for the National Register must include all of their basic structural elements. Parts of buildings, such as interiors, facades, or wings, are not eligible independent of the rest of the existing building. The whole building must be considered,

² Sections 110.1(d) and 405.5 do not apply to historical properties under contract as of lien date 1975 because the constitutional amendment which placed the valuation of historical property under article XIII rather than article XIII A had not yet been passed and, thus, was not in effect for the 1975 lien date.

and its significant features must be identified." Thus, eligibility for the National Register is determined by the extent to which the basic structural elements of an existing building are intact. In general, a newly constructed building would not be eligible because it is not an existing building with basic structural elements.³

Also, a newly constructed building is not a historic resource, and, thus, is not a qualified historical property within the meaning of Government Code section 50280.1. For example, a newly constructed detached garage (assuming it is not a reconstruction of a historical garage) clearly would not be eligible because it has no significance in American history or architecture, nor does it meet any of the other requisite criteria.

Bulletin 15, however, does list one type of newly constructed property that may be eligible for inclusion under the Mills Act. A reconstructed historic building is eligible for the National Register if the reconstruction is "accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived."

The historical property contract typically specifies the scope and type of any work to be performed on the historical improvements. Improvements existing as of the date of the contract would be subject to the provisions of section 439.2 unless specifically excluded by the contract. Any new construction made to the historical structure after the issuing date of the contract would not be subject to the provisions of section 439.2 unless specifically included in the contract or an amendment to the contract. Any questions regarding new construction to enforceably restricted historical structures should be directed to the counsel of the legislative body of the city, county, or city and county that contracted with the property owner.

Assuming that the newly constructed property is subject to the historical property contract, a base year value should be established for the newly constructed portion and this value added to the factored base year value of the existing restricted property.

In some cases, an existing historical property may include a portion that is restricted (i.e., subject to a historical property contract) and a portion that is unrestricted. In this case, separate factored base year values should be maintained for the restricted and unrestricted portions and the base year value of any newly constructed property added to the appropriate portion. The assessment treatment of this type of property is discussed further below.

Supplemental Assessment

Although the assessor is required to establish a new base year value upon a change in ownership or completed new construction involving restricted historical property, such property is not subject to supplemental assessment. As provided in Revenue and Taxation Code section 75.14:

Supplemental assessment; limitation. A supplemental assessment pursuant to this chapter shall not be made for any property not subject to the assessment

³ National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation," U.S. Department of the Interior, National Park Service (www.cr.nps.gov/nr/publications/).

limitations of Article XIII A of the California Constitution. All property subject to the assessment limitations of Article XIII A of the California Constitution shall be subject to the provisions of this chapter, except as otherwise provided in this article.

As discussed above, the assessment of enforceably restricted historical property is subject to the provisions of article XIII, section 8 of the California Constitution, not article XIII A. Thus, section 75.14 precludes the assessor from enrolling supplemental assessments for enforceably restricted historical property.

Historical property not yet under contract that undergoes a change in ownership or new construction is subject to supplemental assessment, even if the property owner later executes a historical property contract in the same fiscal year. Also, any new construction involving a historical property that does not come under the existing historical property contract (e.g., a detached garage added to a restricted historical property) would be subject to supplemental assessment.

When a Property Contains Both Restricted and Unrestricted Portions

When only a portion of a property that would normally be considered a single appraisal unit is restricted by a historical property contract, the assessed value should be determined by making a comparison of three values, determined as follows. First, the portion under contract should be valued using the capitalization method prescribed by section 439.2. Added to this figure should be the lower of the unrestricted portion's fair market value or factored base year value. The resulting sum should be compared to both the fair market value and the factored base year value of the entire property (i.e., both restricted and unrestricted portions) and the lowest of the three figures should be enrolled.

Valuing Property Under Notice of Nonrenewal

As provided in Government Code section 50282, either the owner of a restricted historical property or the local government entity may serve notice that it does not intend to renew the historical property contract. If such notice is not given, another year is automatically added to the term of the initial contract, thus creating a "rolling" contract term that is always equal to the initial contract term.

Section 439.3 prescribes the valuation method for a restricted historical property in nonrenewal status; this valuation method applies until the end of the restricted period (i.e., until the existing contract expires). In essence, the method results in a restricted value that gradually approaches the historical property's factored base year value as the remaining term under the contract decreases. For a property in nonrenewal status, the assessor must annually value the property as follows:

1. Determine the full cash value (i.e., factored base year value) of the property in accordance with section 110.1. (Alternatively, if the property will not be subject to section 110.1 when the historical property agreement expires, determine its fair market value in accordance with

section 110, as if the property were free of the agreement's restrictions; or, if the property will be subject to another type of restricted value standard when the historical property agreement expires, determine the property's value as if it were subject to the new restrictions.)

2. Determine the restricted value of the property by the capitalization of income method provided in section 439.2.
3. Subtract the restricted value determined in Step 2 from the factored base year (or other) value determined in Step 1.
4. Using the amount for the interest rate component (section 439.2(b)(1)) announced by the Board, discount the amount obtained in Step 3 for the number of years remaining until the termination of the contract.
5. Determine the restricted value of the property in nonrenewal status by adding the value determined in Step 2 to the amount obtained in Step 4.

The historical property's restricted value in nonrenewal status—that is, the value determined above, in accordance with section 439.3—should be compared with the historical property's factor base year and current market values, and the lowest of these three values should be enrolled as the property's taxable value.

Cancellation of Contract

The government entity party to a historical property contract may cancel the contract, after notice and a public hearing, if it determines that either the owner has breached the agreement or the property has deteriorated to the extent that it no longer meets the standards of a historical property. If the contract is cancelled, the property owner must pay a cancellation fee equal to 12½ percent of the property's current fair market value as though free of the contractual restriction, such value to be determined by the county assessor. After a contract is cancelled, the lower of the property's factored base year value or current market value should be enrolled for the ensuing lien date.

SUMMARY

The key points contained in these guidelines can be summarized as follows:

1. An owner of qualified historical property may enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics. Such property receives the special valuation treatment prescribed under Revenue and Taxation Code sections 439 through 439.4.
2. Enforceably restricted historical property is to be annually valued by the income capitalization method prescribed in section 439.2, which contains specific instructions with

regard to the income to be capitalized, the capitalization rate, and the capitalization technique to be used. The restricted value must be compared to the property's current market value and factored base year value, with the lowest of these three values enrolled as the property's taxable value.

3. When assessing restricted historical property, the appraiser should consider how three important elements of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment. The appraiser should consider how a property should be assessed when only a portion of it is subject to a historical property agreement.
4. Restricted historical property under a notice of nonrenewal should be valued in accordance with section 439.3.
5. The government entity party to a historical property contract may cancel the contract. The cancellation fee is 12½ percent of the property's current fair market value as though free of the contractual restriction, with such value to be determined by the local assessor.

Additional information about Mills Act contracts may be obtained from the state Office of Historic Preservation, either by telephone at 916-653-6624, or from their website (www.ohp.parks.ca.gov).

(Note: Please see the assessment examples following.)

EXAMPLE 1 (OWNER-OCCUPIED SINGLE-FAMILY RESIDENCE)**Subject Restricted Historical Property**

Restored, 105-year-old, Victorian single-family residence. Excellent condition. Under Mills Act contract since 1985 and not in nonrenewal status. Owner-occupied.

Determination of Restricted Value (current lien date)

Gross income (Fair rent)		
\$1,500 per month x 12 months =		\$18,000
Less: Anticipated vacancy and collection loss		
\$18,000 x 5%		<u>- 900</u>
Effective gross income		\$17,100
Less: Anticipated operating expenses		
Grounds maintenance	\$600	
Fire insurance	400	
Management Fee	360	
Water and garbage	240	
Building maintenance	+ 500	<u>- 2,100</u>
Net Operating Income		\$15,000

Restricted Capitalization Rate

Rate Components:

Interest rate	.080	
Risk (owner-occupied SFR)	.040	
Property tax (ad valorem)	.015	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; $0.02 \times 0.70 = 0.014$)	+ .014	<u>.149</u>

Restricted Value		
\$15,000 ÷ .149		= <u>\$100,671</u>

Taxable Value—Three-Way Value Comparison

Restricted value	\$100,671
Factored base year value (based on prior change in ownership)	\$357,000
Current market value (based on comparable sales)	\$450,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be \$93,671 (\$100,671 restricted value less the homeowners' exemption of \$7,000).

Note 1: If this property had been a non-owner-occupied SFR, the only difference in the determination of the restricted value would have been the use of a risk rate component of 2% rather than 4% in the capitalization rate.

Note 2: In this and the following examples, the gross income, or fair rent, is presented on a gross rent basis, that is, under the assumption that the landlord-owner pays all operating expenses out of the gross income.

Historical Property Valuation Examples

EXAMPLE 2 (OFFICE USE)

Subject Restricted Historical Property

Multi-tenant, restored historical office building in a downtown commercial district. Under Mills Act contract since 1985 and not in nonrenewal status.

Determination of Restricted Value (current lien date)

Gross Income (Fair rent):		
Offices	140,000 sf @ \$1.75/sf = <u>\$245,000</u>	
	x 12 months	= \$2,940,000
Less: Anticipated vacancy and collection loss		
	\$2,940,000 x 5%	<u>- 147,000</u>
Effective gross income		\$2,793,000
Less: Anticipated operating expenses		
Management	\$290,000	
Maintenance	95,000	
Insurance	75,000	
Utilities	360,000	
Janitorial	+ <u>140,000</u>	<u>- 960,000</u>
Net Operating Income		\$1,833,000

Restricted Capitalization Rate

Rate Components:

Interest component	.08	
Risk	.02	
Property tax (ad valorem)	.011	
Amortization (50-year remaining life; improvements constitute 75% of total property market value)		
0.02 x 0.75 = 0.015)	+ <u>.015</u>	<u>.126</u>

Restricted Value		
(\$1,833,000 ÷ .126)		= \$14,547,619

Taxable Value—Three-Way Value Comparison

Restricted value	\$14,547,619
Factored base year value (based on prior change in ownership)	\$18,191,077
Current market value (based on comparable sales)	\$21,000,000

The lowest of the three possible values is the restricted value. Thus, the taxable value would be \$14,547,619

EXAMPLE 3 (MIXED USE—RESIDENTIAL AND OFFICE)**Subject Restricted Historical Property**

Two-story, restored historical property in a downtown district. Upper level is residential unit occupied by owner. Lower level contains three office spaces subject to short-term rental agreements. The income stream for the upstairs unit must be calculated separately from the downstairs unit because the risk rate is different for the owner-occupied unit.

Determination of Restricted Value

Separate restricted values for the upper-level residence and the lower-level office space must be determined, because the risk components are different for the two types of use. The total restricted value is sum of these two values.

Upper-Level Unit

Gross income (Fair rent) based upon comparable rent data		
\$975 per month x 12 months =		\$11,700
Less: Anticipated vacancy and collection loss		
\$11,700 x 5%		<u>- 585</u>
Effective gross income		\$11,115
Less: Anticipated operating expenses		
Grounds maintenance	\$300	
Fire insurance	200	
Management Fee	180	
Water and garbage	120	
Building maintenance	+ 250	<u>- 1,050</u>
Upper-Level Net Operating Income		\$10,065

Restricted Capitalization Rate (owner-occupied SFR)

Rate components:

Interest rate	.080
Risk	.040
Property tax	.010

Amortization (50-year remaining life; improvements

constitute 70% of total property market value;

$$0.02 \times 0.70 = 0.014$$

$$+ .014 \quad \underline{\hspace{1.5cm}} \quad .144$$

$$\text{Upper-level Restricted Value } (\$10,065 \div .144) = \$69,895$$

Lower-Level Offices

Gross income (Fair rent)		
1000 sf @ \$1.60/sf = \$1,600 x 12 months		\$19,200
Less: Anticipated vacancy and collection loss		
\$19,200 x 5%		<u>- 960</u>
Effective gross income		\$18,240

Historical Property Valuation Examples

Less: Anticipated operating expenses		
Grounds maintenance	\$300	
Fire insurance	200	
Management Fee	180	
Water and garbage	120	
Building maintenance	+ 250	- 1,050
Lower-Level Net Operating Income		\$17,190

Restricted Capitalization Rate		
Rate components:		
Interest component	.080	
Risk	.020	
Property tax	.010	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; $0.02 \times 0.70 = 0.014$)	+ .014	.124
Lower Level Restricted Value ($\$17,190 \div .124$)		\$138,629
Add: Upper Level Restricted Value		+ \$69,895
Total Restricted Value		\$208,524

Taxable Value—Three-Way Value Comparison

Restricted Value	\$208,524
Factored base year value (based upon prior change in ownership)	\$364,140
Current market value (based upon comparable sales data)	\$400,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be \$201,524 (\$208,524 less the homeowners' exemption of \$7,000).

EXAMPLE 4 (MIXED VALUATION—PART RESTRICTED AND PART UNRESTRICTED)

Description of Subject Property (Comprises Both Restricted and Unrestricted Portions)

The subject property is a 10-acre parcel with a farmhouse and barn situated on 2 acres; the remaining 8 acres are farmland. The farmhouse and barn are used as an owner-occupied single-family residence; this portion of the property is restricted under a Mills Act contract. The remaining 8 acres of farmland are unrestricted.

Value of Restricted Portion (current lien date)

Gross income (Fair rent) for farmhouse and barn		
\$2,000 per month x 12 months =		\$24,000
Less: Anticipated vacancy and collection loss		
\$24,000 x 5%		- 1,200
Effective gross income		\$22,800
Less: Anticipated operating expenses		
Grounds maintenance	\$600	
Fire insurance	400	
Management Fee	360	
Water and garbage	240	
Building maintenance	+ 500	- 2,100
Net Operating Income		= \$20,700

Restricted Capitalization Rate

Rate components:

Interest component .080

Risk (owner-occupied) .040

Property tax (ad valorem) .010

Amortization (50-year remaining life; improvements

constitute 70% of total property market value

0.02 x 0.70 = 0.014 + .014

.144

Restricted Value (\$20,700 ÷ .144)

= \$143,750

Taxable Value—Three-Way Comparison

Total Property Restricted Value (sum of restricted value above and lower of FBV or current market value of unrestricted portion)

Restricted Value (portion under contract)	\$143,750
FBV (unrestricted portion)	+ \$102,000
Restricted Value (total property)	\$245,750

Factored base year values (based upon a prior change in ownership of the entire property, allocated between restricted and unrestricted portions):

Farmhouse, barn, and 2 acres (restricted portion)	\$204,000
8 acres (unrestricted portion)	+ \$102,000
Total FBV (total property)	\$306,000

Historical Property Valuation Examples

Current market values (based upon comparable sales data):

Farmhouse, barn, and 2 acres (restricted portion)	\$230,000
8 acres (unrestricted portion)	+ <u>\$120,000</u>
Total Current Market Value (total property)	\$350,000

The lowest of the three values is the Restricted Value (total property), \$245,750. Thus, the net taxable value would be \$238,750 (\$245,750 less \$7,000 homeowners' exemption).

EXAMPLE 5 (PROPERTY IN NONRENEWAL STATUS)

Description of Subject Restricted Historical Property

The same property as in Example 2, except the property owner has served notice of nonrenewal. The Mills Act contract covering the property was originally executed in September 1995, and the owner served notice of nonrenewal in June 2004. Value the property for the 2005 lien date, reflecting its nonrenewal status. Assume that the property's restricted, current market, and factored base year values from Example 2, provided below, also refer to January 1, 2005.

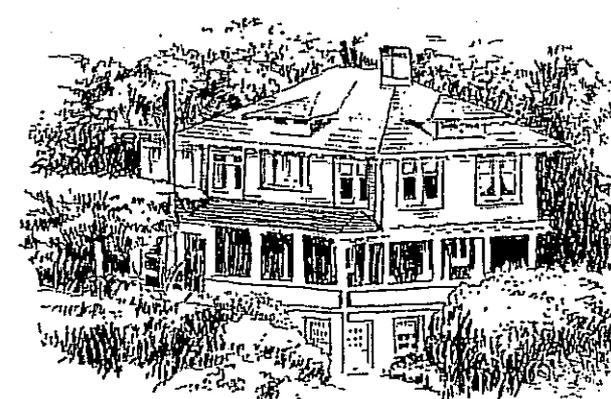
Restricted value	\$14,547,619
Current market value	\$21,000,000
Factored base year value	\$18,191,077

Restricted Value in Nonrenewal Status

Value as if unrestricted (factored base year value)	\$18,191,077
Restricted value	<u>- 14,547,619</u>
Difference	\$ 3,643,458
Present worth of difference	
PW1 @ 6.00 %, 9 years (interest component for lien date 2005)	<u>x .591898</u>
	= \$ 2,156,555
Plus restricted value	<u>+ \$14,547,619</u>
Restricted value in nonrenewal status—lien date January 1, 2005	\$16,704,174

Taxable Value

Since the restricted value in nonrenewal status, \$16,704,174, is less than either the property's current market value or its factored base year value, this is the taxable value.



BELVEDERE IS UNIQUE

The Belvedere Historic Preservation program seeks to protect the important and often fragile historic resources that reflect the history and development of the city.

WHAT IS A MILLS ACT?

Having received designation, the owner may then apply for a Mills Act Agreement (MAA). The Agreement is a State law that allows cities to enter into contracts with the owners of historic structures which provide for reducing property taxes in exchange for the continued preservation of the property.

HOW IT WORKS

The MAA is an evergreen contract which is renewable each year unless the owner or the City elects to serve notice of non-renewal. In that case the MAA will terminate 10 years from date of the notice. If the property fails to live up to the requirements of the MAA or the owner elects to cancel, a penalty of 12½% of the property's market value will be assessed.

ADVANTAGES OF A MAA

- In most cases it lowers the tax rate, sometimes dramatically.
- Tax savings makes money available for maintenance or restoration.
- When property is sold, no reassessment occurs unless notice of non-renewal is served.
- New owners enjoy pre-existing rate, a selling point to potential buyers.
- Reduced tax rate remains in place despite any increase in value.

REQUIREMENTS OF THE MAA

1. Any interior or exterior changes to the property must be reviewed by the HPC.
2. The Secretary of Interior's Guidelines apply to interior and exterior changes to the property.
3. To ensure compliance, the City may request inspection of the property.
4. Property maintenance is a requirement of the MAA.

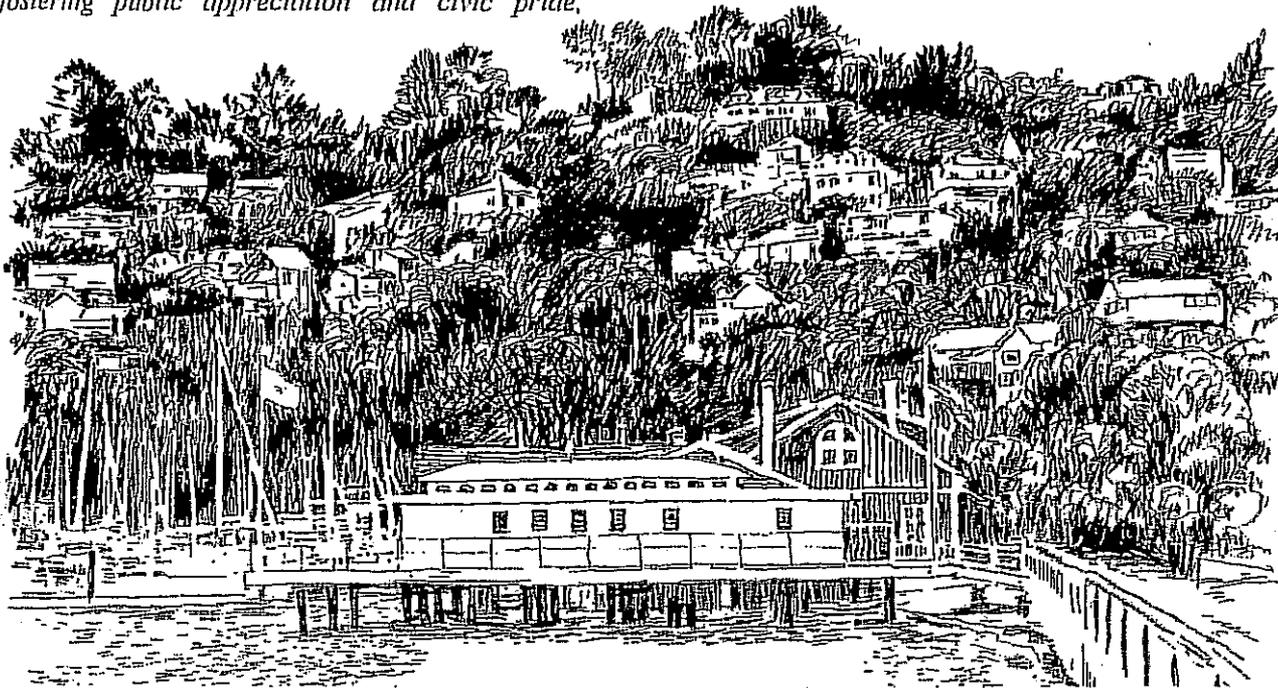
Most of us who live in one of our historic resources love them – their charm, their uniqueness and design.

Designation can be seen as a contribution to the ambience of our community. If you think you'd like to add your house to the City's historic inventory, applications are available at the front desk at City Hall, 450 San Rafael Avenue. A Fact Sheet with further explanation of the Mills Act is also available.

For other questions, call Marty Gordon at 435-3529 or Roger Felton at 435-0381.

Most of us realize the value of our historic resources. Their protection contributes to the livability and beauty of the City by encouraging diverse and harmonious architectural styles, fostering public appreciation and civic pride,

adding to the community's understanding of its connections with life and values of the past, all of which make Belvedere such an attractive and delightful community in which to live and work.



CITY SUPPORT OF PRESERVATION

The City committed itself to a formal recognition of these valuable properties when in 1993 it passed a Historic Preservation Ordinance. It is voluntary, and gives a measure of protection for historic structures by establishing an inventory and descriptions of properties, provides oversight of changes and allows designation as a historic structure.

In 2004 it reaffirmed its support by passing a measure to give designated properties a 50% discount in building-related permit fees and again in 2005 when it agreed to raise the cap on tax loss to the City for designated properties which had a Mills Act Agreement (MAA).

ADVANTAGES OF DESIGNATION

1. Helps preserve the City's valuable historic and architectural tapestry.
2. Use of State Historic Building Code in lieu of more stringent Uniform Building Code.
3. Architect members of HPC may meet with owners to plan changes, avoiding possible conflicts with the ordinance prior to submission to the Planning Commission.
4. A bronze historical plaque is available to all designated property owners.
5. Benefits future generations of owners.
6. Reduced permit fees.
7. Possible Mills Act Agreement tax savings.

HOW DESIGNATION HAPPENS

Historical designation requires the owner to file a request for designation at City Hall. The Historic Preservation Committee (HPC), using the following nationally recognized criteria, evaluates the property for inclusion on the City's historic inventory and writes a case report for the City Council. The property must meet a minimum of 3 of the following 9 criteria:

1. Age
2. Outstanding architecture
3. Outstanding example of a particular style
4. Work of an outstanding architect or builder
5. Outstanding craftsmanship
6. Association with a person, group or event in the City's history
7. Retains most of its original material and design features
8. Is a visual landmark; contributes to the character of the street or neighborhood
9. Is on the National Register of Historic Places



Standards

< HOME >

Standards
Guidelines

Masonry
Wood
Metals

Roofs
Windows
Entrances/Porches
Storefronts

Structural Systems
Spaces/Features/Finishes
Mechanical Systems

Site
Setting

Energy
New Additions
Accessibility
Health/Safety

The Secretary of the Interior's Standards for Rehabilitation

Introduction to the Standards

The Secretary of the Interior is responsible for establishing standards for all programs under Departmental authority and for advising Federal agencies on the preservation of historic properties listed in or eligible for listing in the National Register of Historic Places.



The Standards for Rehabilitation

(codified in 36 CFR 67 for use in the Federal Historic Preservation Tax Incentives program) address the most prevalent treatment. "Rehabilitation" is defined as "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values."

Credits

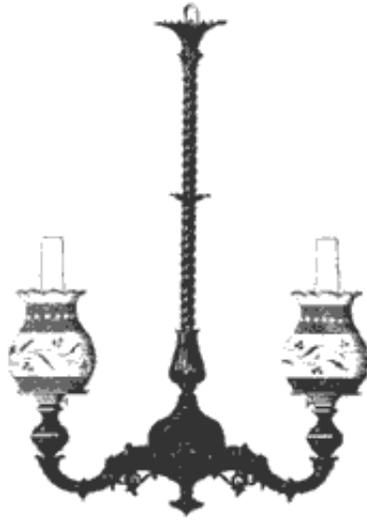
"Rehabilitation" is defined as "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values."

Initially developed by the Secretary of the Interior to determine the appropriateness of proposed project work on registered properties within the Historic Preservation Fund grant-in-aid program, the **Standards for Rehabilitation** have been widely used over the years--particularly to determine if a rehabilitation qualifies as a Certified Rehabilitation for Federal tax purposes. In addition, the Standards have guided Federal agencies in carrying out their historic preservation responsibilities for properties in Federal ownership or control; and State and local officials in reviewing both Federal and nonfederal rehabilitation proposals. They have also been adopted by historic district and planning commissions across the country.

The intent of the Standards is to assist the long-term preservation of a property's significance through the preservation of historic materials and features. The Standards pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and interior of the buildings. They also encompass related landscape features and the building's site and environment, as well as attached, adjacent, or related new construction. To be certified for Federal tax purposes, a rehabilitation project must be determined by the Secretary to be consistent with the historic character of the structure(s), and where applicable, the district in which it is located.

As stated in the definition, the treatment "rehabilitation" assumes that at least some repair or alteration of the historic building will be needed in order to provide for an efficient contemporary use; however, these repairs and alterations must not damage or destroy materials, features or finishes that are important in defining the building's historic character. For example, certain treatments--if

improperly applied--may cause or accelerate physical deterioration of the historic building. This can include using improper repointing or exterior masonry cleaning techniques, or introducing insulation that damages historic fabric. In almost all of these situations, use of these materials and treatments will result in a project that does not meet the Standards. Similarly, exterior additions that duplicate the form, material, and detailing of the structure to the extent that they compromise the historic character of the structure will fail to meet the Standards.



The Secretary of the Interior's Standards for Rehabilitation

The Standards (Department of Interior regulations, 36 CFR 67) pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall 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 architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the

The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

massing, size, scale, and architectural features to protect the historic integrity of the property and its environment. **ATTACHMENT 4**

10. New additions and adjacent or related new construction shall 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.

