




CITY OF PALM SPRINGS

DEPARTMENT OF PLANNING SERVICES

MEMORANDUM

Date: October 13, 2015
To: Historic Site Preservation Board
From: Ken Lyon, RA, Associate Planner 
Subject: "Mills Act 101" – General Information about the State of California Mills Act Historic Property Preservation Agreement Program.

As requested at the September 2015 HSPB meeting, attached is general information about the Mills Act. "Mills Act Contracts" is the short name for the State of California's Mills Act Historic Property Preservation Agreement.

Each City and County that participates in the Mills Act program administers the program according to that jurisdiction's rules and regulations. Following is some general information about how the Mills Act Program is administered in Palm Springs:

1. Mills Act Contracts are only eligible for Class 1 historic sites as designated by the Palm Springs City Council.
2. To apply for a Mills Act Contract, an owner of a Class 1 historic site must send a letter to the director of the Palm Springs Planning Department, requesting that the City initiate a Mills Act Agreement on their property. The fee for processing a Mills Act agreement is presently \$1,305 (Payable to the City of Palm Springs).
3. Mills Act Contracts are 10-year "rolling contracts"; which means each year on the contract anniversary date, an additional year is automatically added to the term of the contract.
4. The City and the property owner are party to the contract. In the case of properties in a Homeowners Association (HOA) the HOA must also be a party to the contract.
5. The applicant must contact the County Assessor's Office to determine the amount of potential tax savings that may be possible by entering into a Mills Act Contract. The City makes no guarantee of any potential tax savings as a result of a property owners request to enter into a Mills Act Contract.
6. Mills Act Contracts require that the property owner rehabilitate and maintain the historic property in accordance with the United States Department of the Interior, Secretary of the Interior Standards for the Treatment of Historic Resources.
7. The City Council authorizes the execution of Mills Act Contracts on a case-by-case basis.
8. The time to process a Mills Act Contract application is typically several months and requires notarized signatures of the homeowner, (HOA where applicable), The City Manager, The City Clerk, and The City Attorney after approval to execute a contract is granted by the City Council.
9. Upon full execution, a copy of the contract is recorded with the County Recorder's Office against the title of the property and the County Tax Assessor's Office is responsible for the adjusted basis for property tax calculation.

Attachments:

- Mills Act Q & A (excerpt from the California Office of Historic Preservation website)
- Governmental Code Section 50280 – 50290; State Law establishing and regulating the Mills Act Program.
- LA Times article dated April 15, 2007 regarding Mills Act Contracts.
- Sample a Palm Springs Mills Act Historic Property Preservation Agreement.



City of Palm Springs

Department of Planning Services

TECHNICAL ASSISTANCE FOR APPLICANTS

Topic: MILLS ACT CONTRACTS – INCENTIVES FOR HISTORIC PROPERTY OWNERS

FREQUENTLY ASKED QUESTIONS:

Q: What is a Mills Act Contract?

A: *The Mills Act is the single most important economic incentive program in California for the restoration and preservation of qualified historic buildings by private property owners. Enacted in 1972, the Mills Act legislation grants participating local governments the authority to enter into contracts with owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties in exchange for property tax relief.*

PROGRAM HIGHLIGHTS:

- *California's leading financial incentive program for historic preservation.*
- *In Palm Springs, only Class 1 historic sites and contributing structures in a historic district as designated by the City Council are eligible.*
- *Property tax reduction -- in some cases up to 40 to 60% - may be possible – consult the County Tax Assessor's Office for details.*
- *Mills Act Contracts "run with the land" and are automatically transferred to new owners when a property is sold.*
- *The Contract term is 10 years with automatic renewal every year.*
- *The County of Riverside Tax Assessor's Office determines the tax rate based on the State's Board of Equalization guidelines.*
- *Although the City and the property owner are the participants in the contract the City does not set the tax rate.*
- *The Mills Act is especially beneficial for recent buyers and current owners of Class 1 historic sites who have made major improvements to their properties.*
- *Properties that have been owned for a considerable period of time usually do not benefit from Mills Act contracts. (because their taxes are already relatively low compared to recently purchased and appraised properties).*
- *In exchange for reduced property taxes, property owners agree to restore, maintain, and protect the property in accordance with specific historic preservation standards and conditions identified in the contract, the U.S. Secretary of the Interior Standards for Historic Preservation, the California Historical Building Code, and the Palm Springs Historic Preservation Ordinance (PSMC Section 8.05).*
- *Pre-approval and follow-up property inspections are performed every five years by the City.*
- *The contract is binding on all owners during the contract period.*
- *Additional information is available from the Palm Springs Planning Department, the State Board of Equalization and California Government Code, Article 12, Sections 50280 - 50290.*
- *Owners of single family, multi-family, commercial, industrial Class 1 historic sites as well as condominiums and contributing structures in historic districts may participate.*

For more information contact the City of Palm Springs Planning Department at 760 323 8245 / www.palmspringsca.gov

Mills Act Questions and Answers

Q: What is the Mills Act Program?

A: Economic incentives foster the preservation of residential neighborhoods and the revitalization of downtown commercial districts. The Mills Act is the single most important economic incentive program in California for the restoration and preservation of qualified historic buildings by private property owners. Enacted in 1972, the Mills Act legislation grants participating local governments (cities and counties) the authority to enter into contracts with owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief. California State Codes Relating to the Mills Act include the following:

California Government Code, Article 12, Sections 50280 - 50290

California Revenue and Taxation Code, Article 1.9, Sections 439 – 439.4

Q: My property or a property I am considering buying is already under a Mills Act contract. What does that mean to me as a property owner?

A: Mills Act contracts are for 10 years initially with automatic yearly extensions and stay with the property when transferred. Subsequent owners are bound by the contract and have the same rights and obligations as the original owner who entered into the contract. Because the local government and the property owner negotiate other specific terms of the contract, you need to contact your local government to determine the rights and obligations a Mills Act contract creates.

Q: How are tax assessments determined for properties under the Mills Act?

A: The State Board of Equalization has provided guidelines for county assessors for use in assessing properties under the Mills Act.

Q: Does my property qualify for the Mills Act Program?

A: First, find out if your local government participates in the program. Use the [Mills Act Contacts](#) list to find out if your local government participates in the Mills Act Program, what the local criteria are, and what the process is for applying.

Q: No, my local government does not currently participate. Now what do I do?

A: Contact the Planning Department or Community Development Department of your local government and ask them to consider adopting the Mills Act Program.

Q: How does the Mills Act benefit Local Governments?

A: The Mills Act allows local governments to design preservation programs to accommodate specific community needs and priorities for rehabilitating entire neighborhoods, encouraging seismic safety programs, contributing to affordable housing, promoting heritage tourism, or fostering pride of ownership. Local

governments have adopted the Mills Act because they recognize the economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past.

A formal agreement, generally known as a Mills Act or Historical Property Contract, is executed between the local government and the property owner for a minimum ten-year term. Contracts are automatically renewed each year and are transferred to new owners when the property is sold. Property owners agree to restore, maintain, and protect the property in accordance with specific historic preservation standards and conditions identified in the contract. Periodic inspections by city or county officials ensure proper maintenance of the property. Local authorities may impose penalties for breach of contract or failure to protect the historic property. The contract is binding to all owners during the contract period.

Q: How does the Mills Act benefit Owners of Historical Properties?

A: Owners of historic buildings *may* qualify for property tax relief if they pledge to rehabilitate and maintain the historical and architectural character of their properties for at least a ten-year period. The Mills Act program is especially beneficial for recent buyers of historic properties and for current owners of historic buildings who have made major improvements to their properties.

Mills Act participants *may* realize substantial property tax savings of between 40% and 60% each year for newly improved or purchased older properties because valuations of Mills Act properties are determined by the Income Approach to Value rather than by the standard Market Approach to Value. The income approach, divided by a capitalization rate, determines the assessed value of the property. In general, the income of an owner-occupied property is based on comparable rents for similar properties in the area, while the income amount on a commercial property is based on actual rent received. Because rental values vary from area to area, actual property savings vary from county to county. In addition, as County Assessors are required to assess all properties annually, Mills Act properties may realize slight increases in property taxes each year.

Q: What is a Qualified Historic Property?

A: A qualified historic property is a property listed on any federal, state, county, or city register, including the National Register of Historic Places, California Register of Historical Resources, California Historical Landmarks, State Points of Historical Interest, and locally designated landmarks. Owner-occupied family residences and income-producing commercial properties may qualify for the Mills Act program, subject to local regulations.

Q: What is OHP's role in the Mills Act program?

A: OHP provides Mills Act information to local governments and uses information provided by local governments to maintain a list of communities participating in the Mills Act program as well as copies of Mills Act ordinances, resolutions, and contracts that have been adopted. OHP does not participate in the contract negotiations, is not a signatory to the contract and has no authority over the administration of the Mills Act program.

Q: Where can I get more information?

A: Contact your local government for answers to specific questions about the program in your community. Additional information is available from the **Board of Equalization** and **California Government Code, Article 12, Sections 50280 - 50290.**

MILLS ACT HISTORIC PROPERTY CONTRACTS

GOVERNMENT CODE – GOV

TITLE 5. LOCAL AGENCIES [50001 - 57550]

DIVISION 1. CITIES AND COUNTIES [50001 - 52203]

PART 1. POWERS AND DUTIES COMMON TO CITIES AND COUNTIES [50001 - 51298.5]

CHAPTER 1. General [50001 - 50290]

ARTICLE 12. Historical Property Contracts [50280 - 50290]

50280.

Upon the application of an owner or the agent of an owner of any qualified historical property, as defined in Section 50280.1, the legislative body of a city, county, or city and county may contract with the owner or agent to restrict the use of the property in a manner which the legislative body deems reasonable to carry out the purposes of this article and of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code. The contract shall meet the requirements of Sections 50281 and 50282.

(Amended by Stats. 1985, Ch. 965, Sec. 1.7.)

50280.1.

“Qualified historical property” for purposes of this article, means privately owned property which is not exempt from property taxation and which meets either of the following:

- (a) Listed in the National Register of Historic Places or located in a registered historic district, as defined in Section 1.191-2(b) of Title 26 of the Code of Federal Regulations.
- (b) Listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.

(Added by Stats. 1985, Ch. 965, Sec. 2.)

50281.

Any contract entered into under this article shall contain the following provisions:

- (a) The term of the contract shall be for a minimum period of 10 years.
- (b) Where applicable, the contract shall provide the following:
 - (1) For the preservation of the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior’s Standards for Rehabilitation, and the State Historical Building Code.
 - (2) For an inspection of the interior and exterior of the premises by the city, county, or city and county, prior to a new agreement, and every five years thereafter, to determine the owner’s compliance with the contract.
 - (3) For it to be binding upon, and inure to the benefit of, all successors in interest of the owner. A successor in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract.

(Amended by Stats. 2013, Ch. 210, Sec. 6.5. Effective January 1, 2014.)

50281.1.

The legislative body entering into a contract described in this article may require that the property owner, as a condition to entering into the contract, pay a fee that shall not exceed the reasonable cost of providing the service pursuant to this article for which the fee is charged.

(Amended by Stats. 2011, Ch. 278, Sec. 2. Effective January 1, 2012.)

50282.

(a) Each contract shall provide that on the anniversary date of the contract or such other annual date as is specified in the contract, a year shall be added automatically to the initial term of the contract unless notice of nonrenewal is given as provided in this section. Each contract shall also provide that after five years, and every five years thereafter, the city, county, or city and county shall inspect the interior and exterior of the premises to determine the owner’s continued compliance with the contract. If the property owner or the legislative body desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract on the other party in advance of the annual renewal date of the contract. Unless the notice is served by the owner at least 90 days prior to the renewal date or by the legislative body at least 60 days prior to the renewal date, one year shall automatically be added to the term of the contract.

(b) Upon receipt by the owner of a notice from the legislative body of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The legislative body may, at any time prior to the renewal date, withdraw the notice of nonrenewal.

(c) If the legislative body or the owner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be.

(d) The owner shall furnish the legislative body with any information the legislative body shall require in order to enable it to determine the eligibility of the property involved.

(e) No later than 20 days after a city or county enters into a contract with an owner pursuant to this article, the clerk of the legislative body shall record with the county recorder a copy of the contract, which shall describe the property subject thereto. From and after the time of the recordation, this contract shall impart a notice thereof to all persons as is afforded by the recording laws of this state.
(Amended by Stats. 2011, Ch. 278, Sec. 3. Effective January 1, 2012.)

50284.

If the legislative body determines that the owner has breached any of the conditions of the contract provided for in this article or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property, the legislative body shall do one of the following:

(a) Cancel the contract by following the procedures specified in Sections 50285 and 50286.

(b) Bring any action in court necessary to enforce a contract, including, but not limited to, an action to enforce the contract by specific performance or injunction.

(Amended by Stats. 2011, Ch. 278, Sec. 4. Effective January 1, 2012.)

50285.

No contract shall be canceled under Section 50284 until after the legislative body has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be mailed to the last known address of each owner of property within the historic zone and shall be published pursuant to Section 6061.

(Added by Stats. 1972, Ch. 1442.)

50286.

(a) If a contract is canceled under Section 50284, the owner shall pay a cancellation fee equal to 12¹/₂ percent of the current fair market value of the property, as determined by the county assessor as though the property were free of the contractual restriction.

(b) The cancellation fee shall be paid to the county auditor, at the time and in the manner that the county auditor shall prescribe, and shall be allocated by the county auditor to each jurisdiction in the tax rate area in which the property is located in the same manner as the auditor allocates the annual tax increment in that tax rate area in that fiscal year.

(c) Notwithstanding any other law, revenue received by a school district pursuant to this section shall be considered property tax revenue for the purposes of Section 42238.02 of the Education Code, as implemented pursuant to Section 42238.03 of the Education Code, and revenue received by a county superintendent of schools pursuant to this section shall be considered property tax revenue for purposes of Article 4 (commencing with Section 2570) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code.

(Amended by Stats. 2013, Ch. 47, Sec. 109. Effective July 1, 2013.)

50287.

As an alternative to cancellation of the contract for breach of any condition, a landowner that is a party to the contract may bring any action in court necessary to enforce a contract, including, but not limited to, an action to enforce the contract by specific performance or injunction.

(Amended by Stats. 2011, Ch. 278, Sec. 5. Effective January 1, 2012.)

50288.

In the event that property subject to contract under this article is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the legislative body to frustrate the purpose of the contract, such contract shall be canceled and no fee shall be imposed under Section 50286. Such contract shall be deemed null and void for all purposes of determining the value of the property so acquired.

(Amended by Stats. 1974, Ch. 544.)

50289.

In the event that property restricted by a contract with a county under this article is annexed to a city, the city shall succeed to all rights, duties, and powers of the county under such contract.

(Added by Stats. 1972, Ch. 1442.)

50290.

Local agencies and owners of qualified historical properties may consult with the State Historical Resources Commission for its advice and counsel on matters relevant to historical property contracts.

(Amended by Stats. 1985, Ch. 965, Sec. 8.)



<http://www.latimes.com/classified/realestate/news/la-re-landmarks15apr15,0,2297578.story?coll=la-home-realestate>

A landmark deal

Savvy homeowners can use 'historic' status to get a tax break.

By Diane Wedner
Times Staff Writer

April 15, 2007

IMAGINE owning a 1915 Craftsman-style home with original gables, pergolas and its very own moniker. And then receiving annual property-tax savings of 50% for the privilege.

Architectural buffs Robert and Ursula Imboden are doing just that in the Edwards House in Old Towne Orange — as participants in a statewide program designed to preserve historic neighborhoods through partnerships with qualified homeowners. There's prestige attached too.

"It's special to own a piece of local history," said Rodeo Realty agent Ian Brooks, who has brokered several historic home sales. "People love their designer clothes and cars, and now it's homes: 'Do you live in a Neutra? A Herzog?'"

Those bragging rights can come with property-tax breaks thanks to the 1972 Mills Act, under which participating local governments enter into contracts with owners of historic properties who agree to rehabilitate and maintain them. In exchange, the homeowners receive 40% to 60% savings, and sometimes more, on their property taxes. The intent of the tax break is for participants to use the savings to keep their properties in tip-top shape.

As a bonus, sellers of homes with Mills Act agreements can transfer the contracts to the new owners, ensuring the maintenance of the properties.

Statewide, there are 2,457 contracts in effect; in Los Angeles alone, 315 homes are under contract. In Orange, 132 owners currently participate.

Generally, to qualify, a property must be listed on a historic register, such as the National Register of Historic Places or the California Register of Historical Resources. Local jurisdictions may tailor their requirements for qualification — for instance, requiring that a house be locally designated as a historical resource.

After receiving approval, the owners enter into an initial 10-year contract with the municipality. Each year, the contract is renewed automatically for a new 10-year term. In effect, the agreement is in force for perpetuity, as long as the owners fulfill their obligations — such as replacing roofs, painting, and updating plumbing and electrical — and if no action is taken by either party to cancel the contract. Owners also must keep the properties in compliance with current building and zoning codes.

City planners say it's a win-win situation. Owners save, through tax breaks, some or all of the money they put into fixing the homes, and cities "preserve the history, architecture and culture of the community," said Ili Lobaco, associate planner for Monrovia.

However the city may view it, the Imbodens are ecstatic with the way things turned out. The couple had coveted the Greene & Greene-inspired home for years, certain they could never afford it, Robert Imboden said.

When it came on the market about a year ago, Robert, a 40-year-old assistant professor of architectural history at American InterContinental University in Los Angeles, and Ursula, a 42-year-old hairstylist, jumped at the chance to buy it. They knew that with a Mills Act contract, they could restore the historic four-bedroom house to its original glory and still afford the payments and property taxes, Robert said.

They bought the 2,900-square-foot home for about \$1.2 million. It was built by Nelson "Nels" Edwards, a prominent Orange politician and bank president. Legend has it that President Herbert Hoover once stayed in the house, which has an original sleeping porch upstairs that was enclosed by one of the later owners. Restoring its outdoor charm is high on the Imbodens' to-do list.

Without a Mills contract, the couple's property-tax bill would have been \$12,000 annually, Robert said. With the contract, under which they have agreed to install a new roof, restore the original wood siding, complete seismic retrofitting and repair rain gutters, among other projects, the bill is \$6,000 per year.

The overall savings may be less for some owners, depending on their federal income-tax rate. Nonetheless, most owners still save money by participating in the program.

Garrett Ngo, a 41-year-old certified public accountant, and wife Kristine, a 37-year-old Pilates instructor, also Old Towne residents, purchased their light-filled Prairie-style home six months ago. They are the third owners to "inherit" the property's Mills Act contract.

The 1930s three-bedroom house, which they agreed to fix up (renovations include refinishing the floors and updating the bathroom), cost about \$1 million. Their tax bill, which would have been \$12,000 per year, is \$2,000 because they carried forward the Mills Act contract. It valued the property at about \$260,000.

Property valuation is determined by a tax assessor formula that selects the lowest of three values: the current property tax assessment, the current fair market value or the Mills Act appraised value, which is based on the California Revenue and Taxation Code and on a property's income potential, minus allowed expenses.

Mills Act perks place premiums on participants' properties.

"These historic homes sell for about 20% more than other homes," said Orange Realty agent Dan Slater. "But the tax savings make it all the sweeter."

Tax breaks help seal the deal for some buyers, but surrounding oneself with jaw-dropping architectural features is what spurs others.

Greta von Steinbauer, an investor, and her business associate, John Gochá, a film and music

producer, began searching 10 years ago for a house with special architectural appeal. They discovered a red-brick mansion designed by noted architect Alfred F. Rosenheim — onetime president of the Los Angeles chapter of the American Institute of Architects — complete with a turret, hidden among towering deodar trees and a long-neglected garden in the Country Club Park section of Los Angeles. The couple bought the 14,200-square-foot estate, built in 1904 by Rosenheim as his private residence, for \$2 million; it's listed for sale at close to \$5 million.

Walking through the three-story, seven-bedroom manor is to experience one of Southern California's most exciting architectural eras. Leaded and stained Tiffany glass windows and doors infuse the stairway, parlor and dining room with light and art. The home also features antique light fixtures and hand-etched light bulbs; custom-designed fireplaces with Batchelder tiles, blood marble and hand-hammered and solid copper backing plates; and a silver- and gold-leaf, hand-painted antique ceiling. A former chapel serves as Gochá's backyard recording studio.

At one time, nuns from the Sisters of Social Service occupied the house, as well as the one next door.

The couple restored much of the house before they got a Mills Act contract in 2004. Work included installing a new roof, renovating the kitchen and painting; they did additional work after they entered the agreement.

Before the contract, their property taxes were \$20,000 per year; they now pay \$10,000. If the estate sells for \$5 million, the new buyers will continue to pay \$10,000 in taxes with the Mills Act transfer, quite a savings from the \$50,000 or more they would have to pay without it, said Lambert Giessinger, historical property contracts manager in Los Angeles' Office of Historic Resources.

"They'll get \$40,000 per year in tax savings to put into the property," Giessinger said, "so it should be the best-looking one on the block!"

In Los Angeles, the county Assessor's Office reassesses Mills Act properties each year and reports slackers — those who don't make promised repairs or fail to maintain the sites — to the historic resources office, which also does periodic inspections.

Last year, Los Angeles approved its largest number of new Mills contracts, 51 out of 54 applications, Giessinger said. Unlike Orange, which issues a maximum of 20 contracts per year, there is no annual cap.

Ardent preservationists Murray Burns and Planaria Price have done their share to renovate Victorian homes in Angelino Heights, a Los Angeles neighborhood known for its architectural heritage.

Burns bought his first "great ghost house," as he calls un-restored Victorians in that area, in the 1970s, and he noticed something special about the ceilings while lying on a futon, his only piece of furniture then:

"I looked at where the chandelier was mounted and said, 'It's art!' " He was hooked.

The couple have bought and renovated a dozen Angelino Heights historic-landmark-designated homes, including a pristine 1888 Queen Anne house on Carroll Avenue. Five of their properties have been granted Mills Act contracts, Burns said. One has since been sold.

Richard Stanley, a Los Angeles agent with 20 years' experience selling historic homes, says more and more buyers are seeking these properties because they view them as icons of their eras, whether a Victorian or Streamline Moderne.

"There aren't many of them, and they don't come up for sale often enough," Stanley said. "But they're real plums. People line up for them."

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PARTNERS:



**FREE RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

City of Palm Springs
3200 East Tahquitz Canyon Way
Palm Springs, CA 92263-2743
Attn: City Clerk

HISTORIC PROPERTY PRESERVATION AGREEMENT

This Historic Property Preservation Agreement ("Agreement") is made this _____ day of _____, 201_ by and between the City of Palm Springs, a charter city and municipal corporation ("City") and _____ ("Owner").

RECITALS:

- A. California Government Code Sections 50280, *et seq.* (the "State Law"), as may be amended from time to time, authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance, protection, and restoration of such historical property so as to retain its characteristics as a property of historical significance.
- B. The Owners possess fee title in and to that certain real property, together with associated structures and improvements thereon, generally located at the street address _____, Palm Springs, California ("Historic Property"). A legal description of the Historic Property is attached hereto as Exhibit A and is incorporated herein by this reference.
- C. On _____, 201_ (the "Approval Date"), the City Council of the City of Palm Springs ("Council") approved Resolution _____ designating the Property a Class 1 historic site, pursuant to the terms and provisions of Chapter 8.05 of the Palm Springs Municipal Code (the "City Code").
- E. The City and the Owners desire to enter into this Agreement for the purpose of protecting and preserving the characteristics of historical significance of the Historic Property, in accordance with the State Law; to help preserve the Palm Springs community's own unique civic identity and character; and to qualify the Historic Property for an assessment of valuation pursuant to Revenue and Taxation Code Section 439.2 and any corresponding adjustment in property taxes resulting therefrom.

AGREEMENT

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

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on _____, 201_ ("Effective Date") and shall remain in effect for a minimum term of ten (10) years

thereafter. Each year upon the anniversary of the Effective Date ("Renewal Date"), an additional one (1) year shall automatically be added to the remaining term of the Agreement unless a notice of nonrenewal is delivered as provided in Section 2 of this Agreement.

2. Non-Renewal and Cancellation. If either the Owner or the City desire in any year not to renew this Agreement, the Owner or the City shall serve a written notice of nonrenewal upon the party in advance of the Renewal Date ("Notice of Nonrenewal"). The Notice of Nonrenewal shall be effective only if served by the Owner upon the City at least ninety (90) days prior to the Renewal Date, or if served by the City upon the Owner, the Notice of Nonrenewal shall be effective only if served upon the Owner at least sixty (60) days prior to the Renewal Date. If either the City or the Owner serve a Notice of Nonrenewal in any year, this Agreement shall remain in effect for the balance of the term then remaining from the last Renewal Date (or from the Effective Date if no Renewal Date has yet occurred).

3. Owner Protest of City Nonrenewal. Within fifteen (15) days of the Owner's receipt of the Notice of Nonrenewal from the City, the Owner may file with the City a written protest of the Notice of Nonrenewal. Upon receipt of the written protest, the City Council shall set a hearing prior to the expiration of the Renewal Date of this Agreement. The Owner may furnish the City Council with any information which Owner deem relevant and shall furnish the City Council with any information it may require. The City Council may, at any time prior to the annual Renewal Date, withdraw its Notice of Nonrenewal.

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

- 4.1 The Owner shall preserve and maintain the characteristics of the cultural and historical significance of the Historic Property. Attached to this Agreement as Exhibit "B", is a list of the minimum standards and conditions for maintenance, use, protection, and preservation of the Historic Property, which shall apply to the Historic Property. The Owner shall comply with these minimum standards throughout the term of this Agreement. In addition, Owner shall comply with the terms of the City Code, and shall obtain any applicable permits necessary to protect, preserve, restore, and rehabilitate the Historic Property so as to maintain its historical and cultural significance.
- 4.2 The Owner shall, where necessary, repair, maintain, restore, and rehabilitate the Historic Property according to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, Secretary of the Interior's Standards for the Treatment of Historic Properties, the State Historical Building Code, and the City of Palm Springs. The condition of the interior and exterior of the Historic Property on the effective date of this Agreement is documented in photographs attached as Exhibit "C" to this Agreement. At a minimum, Owner shall continually maintain the exterior of the Historic Property in the same condition as documented in Exhibit "C."
- 4.3 The Owner shall carry out specific restoration, repair, maintenance, and/or rehabilitation projects on the Historic Property, as outlined in the attached Exhibit "D" to this Agreement. All such projects shall be undertaken and completed in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for

Preservation, Restoration and/or Rehabilitation and the City Codes and all applicable design guidelines.

4.4 The Owner shall not be permitted to block the view corridor with any new structure, such as walls, fences, or shrubbery, so as to prevent the viewing of the Historic Property from the public right-of-way.

5. Interior and Exterior Inspections. Prior to the approval, execution, and recordation of this Agreement, and every five years thereafter, the City Manager of the City or the City Manager's designee (the "City Manager") shall inspect the interior and exterior of the premises to determine the Owner's compliance with the terms and provisions of this Agreement.

6. Provision of Information of Compliance. The Owner shall furnish the City Manager with any and all information requested by the City Manager, which the City Manager deems necessary or advisable to determine eligibility of the Historic Property and compliance with the terms and provisions of this Agreement.

7. Breach of Agreement; Remedies.

7.1 If the Owner breaches any provision of this Agreement, the City Manager may give written notice to the Owner by registered or certified mail detailing the Owner's violations. If such violation is not corrected to the reasonable satisfaction of the City Manager within thirty (30) days after the date of notice of violation, or within such a reasonable time as may be required to cure the violation (provided the acts to cure the violation are commenced within thirty (30) days and thereafter diligently pursued to completion), the City Manager may, without further notice, declare THE Owner to be in breach of this Agreement. Upon the City Manager's declaration of the Owner's breach, the City Manager may pursue any remedy available under local, state, or federal law, including those specifically provided for in this section.

7.2 The City Council may cancel this Agreement if the City Council determines, following a duly noticed public hearing in accordance with California Government Code section 50286, that the Owner breached any of the conditions of the Agreement, the Owner allowed the Historic Property to deteriorate to the point that it no longer meets the standards for a qualified historic property, or the Owner failed to maintain and preserve the Historic Property in accordance with the terms of this Agreement. If this Agreement is cancelled, under this paragraph, the Owner shall pay a cancellation fee to the Office of the Auditor for the County of Riverside as required by California Government Code Section 50286.

7.3 As an alternative to cancellation of this Agreement for the Owner's breach of any condition, the City Manager may bring an action in court necessary to enforce this Agreement including, but not limited to, an action to enforce this Agreement by specific performance, injunction, or receivership.

8. Destruction of Property; Eminent Domain; Cancellation. If the Historic Property is destroyed by earthquake, fire, flood, or other natural disaster such that in the opinion of the City Building Official more

than sixty percent (60%) of the original fabric of the structure must be replaced, this Agreement shall be cancelled because the historic value of the structure will have been destroyed. If the Historic Property 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 this Agreement, this Agreement shall be cancelled. No cancellation fee pursuant to Government Code section 50286 shall be imposed if the Agreement is cancelled pursuant to this Section.

9. Waiver. The City does not waive any claim of default by the Owner if the City or the City Manager 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 the City or the City Manager 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. The Owner hereby subjects the Historic Property to the covenants, conditions, and restrictions set forth in this Agreement. The City and the Owner hereby declare their specific intent that the covenants, conditions, and restrictions set forth in this Agreement shall be deemed covenants running with the land and shall inure to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed, or other instrument herein after 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 are set forth in such contract, deed or other instrument.

11. Covenants Run with the Land. The City and the Owner hereby declare their understanding and intent that the burden of the covenants, reservations, and restrictions set forth in this agreement touch and concern the land in that it restricts development of the Historic Property. The City and the 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 historical characteristics and significance of the Historic Property for the benefit of the public, the City, and the Owner.

12. 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 be later specified by the parties hereto:

City: City of Palm Springs
Office of the City Clerk
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92263

Owner: _____

13. Effect of Agreement. 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 the parties to be considered joint venturers or members of any joint enterprise.

14. Indemnity of City. The Owner shall defend, indemnify, and hold harmless the City and its elected officials, officers, agents, and employees from any actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state or local governmental agency, arising out of or incident to (i) the direct or indirect use operation, or maintenance of the Historic Property by the Owner or any contractor, subcontractor, employee, agent, lessee, licensee, invitee, or any other person; (ii) the Owner's activities in connection with the Historic Property; and (iii) any restrictions on the use or development of the Historic Property, from application or enforcement of the City Code, or from the enforcement of this Agreement. This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of City, its elected officials, employees, and/or agents for all legal expenses and costs incurred by each of them. The Owner's obligation to indemnify shall survive the termination, cancellation, or expiration of this Agreement and shall not be restricted to insurance proceeds, if any, received by the City, its elected officials, employees, or agents.

15. Binding Upon Successors. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties 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.

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

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

18. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the office of the County Recorder of the County of Riverside. In the event the City fails to record this Agreement as provided in this Section, the Owner or agent of an owner shall record this Agreement with Riverside County within six (6) months of entering into the Agreement and shall file and submit a conformed copy of this Agreement with the City Clerk promptly after recordation.

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

20. Governing Law and Venue. This Agreement shall be construed and governed in accordance with the laws of the State of California. Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

21. No Compensation. The Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The Owner and the City acknowledge and agree that the primary consideration to the City for the execution of this Agreement is the substantial benefit to the citizens of Palm Springs accruing from the rehabilitation and maintenance of the Property, and the primary consideration to the Owner is the economic advantage that will accrue to the Owner as a result of the possible effect upon the assessed value of the Property of the restrictions on the use and preservation of the Property imposed hereunder. The Owner acknowledges that it is not guaranteed to receive a reduction of property taxes as a result of this Agreement.

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

CITY OF PALM SPRINGS,
a municipal corporation

Dated: _____

By: _____
City Manager: David H. Ready

APPROVED AS TO FORM:

ATTEST:

City Attorney: Douglas Holland

City Clerk: James Thompson

Dated: _____

By: _____
Owner

Dated: _____

By: _____
Owner

Dated: _____

By: _____
Homeowners Association (Representative)

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF _____ }
 COUNTY OF _____ } SS

On _____, before me, _____, Notary Public,

DATE

personally appeared _____,

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 signatures(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.

(Seal)

WITNESS my hand and official seal.

 Signature of Notary

ATTENTION NOTARY: Although the information requested below is **OPTIONAL**, it could prevent fraudulent attachment of this certificate to unauthorized document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:

Title or Type of Document _____
Number of Pages _____ DATE of DOCUMENT _____
Signer(s) Other Than Named Above _____

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B
MAINTENANCE STANDARDS
(Section 4.1)

EXHIBIT C
EXISTING CONDITIONS
(Section 4.2)

EXHIBIT D
SPECIFIC PROJECTS
(Section 4.3)