

RESOLUTION NO. 12-018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
ESTABLISHING THE "MILLS ACT HISTORIC PROPERTY TAX INCENTIVE PROGRAM"

WHEREAS, on March 15, 2011, the City Council adopted Ordinance No. 972 N.S., adding Chapter 21.50 to the Paso Robles Municipal Code regarding Historic Preservation; and

WHEREAS, Section 21.50.170 specifically allows owners of properties designated as Historic Landmarks or Contributors to Historic Districts, as defined in Chapter 21.50, to participate in certain incentive programs to preserve such properties; and

WHEREAS, Government Code section 50280 et seq. (the "Mills Act") allows a city and the owner of a qualified historic property to enter into a contract pursuant to which the property owner agrees to make certain specified improvements to the property and to preserve and maintain such property, all in accordance with specified standards, in exchange for a reduction in property tax assessment on the property; and

WHEREAS, a property owner who agrees to rehabilitate, preserve and maintain an historic property benefits from seeing the property value increase and realizes property tax savings, while the community benefits from having an historic resource preserved; and

WHEREAS, maintaining historic resources adds to the quality and character of the City; and

WHEREAS, the City Council of the City of El Paso de Robles considered the recommendation of the Planning Commission and public testimony regarding the Mills Act Program, and makes the following findings:

1. The City of Paso Robles recognizes that preservation, protection and use of historic resources is necessary to maintain community assets.
2. Preservation of historic resources is a key component of the Community's sense of place and quality of life.
3. The General Plan contains policies and programs to promote the preservation, maintenance and rehabilitation of historic resources. The Mills Act Program promotes the General Plan goals by providing financial incentives to encourage property owners to preserve, maintain and rehabilitate their property through property tax savings.
4. The City Council adopted the City's Historic Preservation Ordinance in February 2011 which includes historic preservation incentives, including the Mills Act Historic Property Contracts.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of El Paso de Robles does hereby establish the Mills Act Historic Preservation Incentive Program and approves the form of agreement

between the City and property owner to implement the program, attached hereto as Exhibit A and incorporated herein by reference.

PASSED AND ADOPTED THIS 7th day of February by the following vote:

AYES: Strong, Hamon, Gilman, Steinbeck, Picanco

NOES:

ABSENT:

ABSTAIN:

Duane Picanco, Mayor

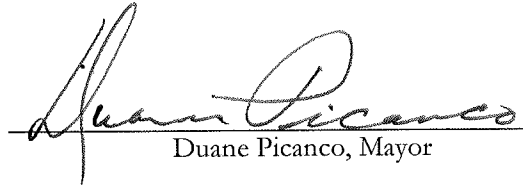
ATTEST:

Caryn Jackson, Deputy City Clerk

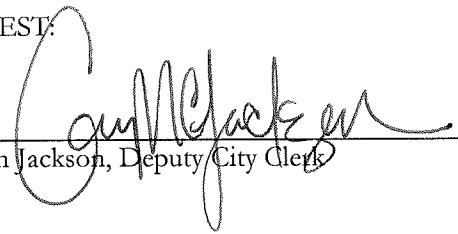
between the City and property owner to implement the program, attached hereto as Exhibit A and incorporated herein by reference.

PASSED AND ADOPTED THIS 7th day of February by the following vote:

AYES: Strong, Hamon, Gilman, Steinbeck, Picanco
NOES:
ABSENT:
ABSTAIN:



Duane Picanco, Mayor

ATTEST:


Caryn Jackson, Deputy City Clerk

EXHIBIT A

WHEN RECORDED, RETURN TO:

City of El Paso de Robles
1000 Spring Street
Paso Robles, CA 93446

Attn: Community Development Director

MILLS ACT AGREEMENT

THIS AGREEMENT (“Agreement”) is made an entered into this ___ day of _____, 20___, (the “Effective Date”) by and between the City of El Paso de Robles, a municipal corporation (hereinafter referred to as the “City”), and _____, (hereinafter referred to as “Owner”), and collectively referred to as the “parties”.

Recitals

A. The City enacted Ordinance No. 972 N.S. thereby adding Chapter 21.50 to the Paso Robles Municipal Code to encourage the preservation of historic properties within the City. One of the historic preservation incentives included in Chapter 21.50 is the authority for the City to enter into contracts under the Mills Act (Gov’t. Code §50280 *et seq.*) (the “Mills Act”).

B. Owner is the owner of property at _____ [insert address] _____ (the “Property”) that has been designated by the [City, State, federal government] as an _____ [Historic Landmark; historic Resource, etc.] _____.

Agreements

Section 1. **Incorporation of Recitals.** All of the above recitals are true and correct and are hereby incorporated in this Agreement.

Section 2. **Description of Preservation Measures.** Owner hereby agrees to undertake and complete, at its sole cost and expense, the preservation, maintenance and improvement measures on the Property as described in “Exhibit A”, attached hereto and incorporated herein by reference.

Section 3. **Effective Date and Term of Agreement.** This Agreement shall be effective and commence upon the Effective Date set forth above, and shall remain in effect for an initial term of ten (10) years.

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Mills Act Agreement

Section 4. Agreement Renewal and Non-Renewal.

- A. Beginning on the anniversary date of the Effective Date, and on each anniversary date thereafter (hereafter referred to as the “Annual Renewal Date”), the term of this Agreement shall be extended automatically by one (1) year unless written notice of non-renewal is served as provided herein.
- B. If the Owner or the City desires in any year not to renew the Agreement, the Owner or the City shall serve written notice of non-renewal of the Agreement on the other party. Unless such notice is served by the Owner on the City at least ninety (90) days prior to the Annual Renewal Date, or served by the City Council on the Owner at least (60) days prior to the Annual Renewal Date, one (1) year shall automatically be added to the term of the Agreement as provided herein.
- C. Owner may make a written protest of a notice of non-renewal. The City Council may, at any time prior to the Annual Renewal Date, withdraw its notice to the Owner of non-renewal.
- D. If either City or Owner serves notice to the other party of non-renewal in any year, the Agreement shall remain in effect for the balance of the remaining term.

Section 5. Standards and Conditions. During the term of this Agreement, the Property shall be subject to all of the following conditions:

- A. Owner agrees to preserve, maintain, and where necessary, restore or rehabilitate the Property and its character-defining features, including the building’s general architectural form, style, materials, design, scale, proportions, organization of windows, doors, and other opening; interior architectural elements that are integral to the building’s historic character or significance; exterior materials, coating, textures, details, mass, roof line, porch and other aspects of the appearance of the building’s exterior, as described in Exhibit A, to the satisfaction of the Community Development Director or his designee.
- B. If the building’s interior contributes to the Property’s eligibility as a qualified historic property, the Owner agrees to allow pre-arranged tours on a limited basis, as approved by the Community Development Director or his designee.
- C. All building changes shall comply with applicable City specific plans, City regulations and guidelines, and conform to the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation, namely the U.S. Secretary of the Interior’s Standards for Rehabilitation and Standards and Guidelines for Historic Preservation Projects. Interior remodeling shall retain original, character-defining architectural features such as oak or mahogany details, pillars and arches, special tilework or architectural ornamentation, to the greatest extent possible.
- D. Owner shall notify the Community Development Director of any proposed changes to character-defining features of the Property prior to their execution, such as major landscaping projects and tree removals, exterior door or window replacement, repairing, remodeling, or any other exterior alterations requiring a building permit. The Owner agrees to secure all necessary City approvals and/or permits prior to changing the building’s use or commencing construction work.

- E. Owner agrees that property tax savings resulting from this Agreement shall be used for property maintenance and improvements as described in Exhibit A.
- F. The following are expressly prohibited: demolition or partial demolition of the historic Property or accessory buildings; exterior alterations or additions not in keeping with the standards listed above; dilapidated, deteriorating or unrepaired structures such as fences, roofs, doors, walls, windows; outdoor storage of junk, trash, debris, appliances, or furniture visible from a public way; or any device, decoration, structure or vegetation which is unsightly due to lack of maintenance or because such feature adversely affects, or is visually incompatible with, the Property's recognized historic character, significance and design, as determined by the Community Development Director.
- G. Owner shall allow reasonable periodic examination, by prior appointment, of the interior or exterior of the Property by representatives of the County Assessor, the State Department of Parks and Recreation, the State Board of Equalization, and the City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

Section 6. Furnishing of Information. The Owner hereby agrees to promptly furnish any and all information requested by the City which City reasonably deems necessary or advisable to determine Owner's compliance with the terms and provisions of this Agreement.

Section 7. Cancellation of Agreement for Owner Breach.

- A. The City, following a duly noticed public hearing by the City Council, as required by Government Code Section 50285, may cancel this Agreement if it determines that 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 historic property; or if the City determines that the Owner has failed to preserve, maintain or rehabilitate the Property in the manner specified in Section 5 of this agreement. If the Agreement is cancelled because of failure of the Owner to preserve, maintain, and rehabilitate the Property as specified above, Owner shall pay a cancellation fee in the amount and manner set forth in Government Code Section 50286, as it may be amended from time to time.
- B. If the Property is acquired by eminent domain and the City Council determines that the acquisition frustrates the purpose of the Agreement, this Agreement shall be canceled and no fee imposed, as specified in Government Code Section 50288.

Section 8. Enforcement of Agreement.

- A. In lieu of and/or in addition to any provisions to cancel the Agreement as referenced herein, the City may specifically enforce, or enjoin the breach of, the terms of the Agreement. In the event of a default, under the provision to cancel the Agreement by the Owner, the City shall give written notice of violation to the Owner by registered or certified mail to the address set forth in Section 10 below. If such a violation is not corrected to the reasonable satisfaction of the Community Development Director or designee within thirty (30) days thereafter; or if not corrected within such a reasonable time as may be required to cure the breach or default of said breach; or if the default cannot be cured within thirty (30) days thereafter (provided that acts to cure the breach or default may be commenced within thirty (30) days and shall thereafter be diligently pursued to completion by the Owner); then the City may, without further notice,

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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, apply to any court, state or federal, for injunctive relief against any violation by Owner, or apply for such relief as may be appropriate.

- B. The City does not waive any claim of default by Owner if the 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 the City's regulations governing historic properties are available to the City to pursue in the event that there is a breach or default under this Agreement. No waiver by the City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default herein under.

Section 9. **Binding Effect of Agreement.** The Owner hereby agrees that the Property shall be subject to the covenants, reservations, and restrictions as set forth in this Agreement. The 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 Property. Every contract, deed, or other instrument hereinafter executed, covering or conveying the 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, restrictions, and reservations are set forth in such contract, deed, or other instrument.

Section 10. **Notice.** Any notice required by the terms of this Agreement shall be sent registered or certified mail, return receipt requested, to the address of the respective parties as specified below or at other addresses that may be later specified by the parties hereto.

To City: Community Development Director
 City of El Paso de Robles
 1000 Spring Street
 Paso Robles, CA 93446

To Owner:

Section 11. **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 venturers or members of any joint enterprise.
- B. The Owner agrees to hold the City and its elected and appointed officials, officers, agents, and employees harmless from liability for damage, or from claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or activities of the Owner, or from those of the contractor, subcontractor, agent, employee or other person acting on the Owner's behalf which relates to the use, operation, maintenance, or improvement of the Property. The Owner hereby agrees to and shall defend the City and its

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elected and appointed officials, officers, agents, and employees with respect to any and all claims or actions for damages caused by, or alleged to have caused by, reason of the Owner's activities in connection with the Property, excepting however any such claims or actions which are the result of the sole negligence or willful misconduct of the City, or its officers, agents or employees.

- C. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, and costs of defense incurred, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied, or approved the plans, specifications, or other documents for the property.
- D. 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 Property, whether by operation of law or in any manner whatsoever.
- E. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.
- F. 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 affected thereby.
- G. This Agreement shall be construed and governed in accordance with the laws of the State of California.
- H. Owner agrees it shall pay City, as a condition to entering into this Agreement, all necessary and reasonable fees to recover City's costs of executing, recording and administering this Agreement.

Section 12. **Amendments.** This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.

Section 13. **Recordation of Agreement.** No later than twenty (20) days after the Effective Date, the City shall cause this Agreement to be recorded in the office of the County Recorder of the County of San Luis Obispo.

[Signatures on following page]

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

CITY OF EL PASO DE ROBLES

Duane Picanco, Mayor

Date

ATTEST:

City Clerk

OWNER

Date

Date

Exhibit A

MAINTENANCE AND IMPROVEMENT MEASURES FOR PROPERTY LOCATED AT _____, PASO ROBLES, CALIFORNIA.

1. Owner shall preserve, maintain, and repair the historic building, including its character-defining architectural features in good condition, to the satisfaction of the Community Development Director or designee, pursuant to a Mills Act Preservation Contract with the City of El Paso de Robles for property located at _____. Character defining features shall include but not be limited to: roof, eaves, dormers, trim, porches, walls and siding, architectural detailing, doors and windows, window screens and shutters, balustrades and railings, foundations and surface treatments.
2. Owner agrees to make the following improvements and/or repairs during the term of this contract, but in no case later than _____. All changes or repairs shall be consistent with the City's Historic Preservation Ordinance and the Secretary of the Interior's Standards for Historic Preservation Projects:

(Improvements to be inserted)