

RECORDING REQUESTED BY: City of Arcata
AND WHEN RECORDED RETURN TO:
Community Development Department
736 F Street
Arcata, CA 95521

(Exempt from recording fees pursuant to Government Code Section 6103)

**HISTORIC PROPERTY AGREEMENT
BY AND BETWEEN THE CITY
OF ARCATA, A MUNICIPAL
CORPORATION, AND**

John Q. Public
1234 America Ave.
Arcata, CA 95521

FOR THE PRESERVATION AND
BENEFIT OF THE DESIGNATED
HISTORIC LANDMARK LOCATED
AT

1234 America Ave.
Arcata, CA 95521

THIS AGREEMENT is made and entered into this ___ day of _____, 2017, by and between the CITY OF ARCATA, a municipal corporation (hereinafter referred to as the "City") and John Q. Public (hereinafter referred to as the "Owner").

RECITALS

WHEREAS, California Government Code Section 50280, et seq. (the Mills Act), 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 characteristics as a property of historical significance; and

WHEREAS, Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, commonly known as 1600 Pennsylvania Avenue, Arcata, CA (hereinafter such property shall be referred to as the "Historic Property"), recorded with the Humboldt County Recorder with the following legal description:

~~ Insert legal description from current grant deed ~~

WHEREAS, on July 6, 2016, the City Council of Arcata adopted a Mills Act program, thereby vesting the City with authority to enter into historic property contracts with property owners; and

WHEREAS, the Property is considered a designated historic resource by the City Council of Arcata, pursuant to Arcata Landmark combining zone _____; and

WHEREAS, City and Owner, for their mutual benefit, now desire to enter into this agreement both to protect and preserve the historically significant characteristics of the Historic Property and to qualify the Historic Property for an assessment of valuation pursuant to the Provisions of Chapter 3 of Part 2 of Division

1 of the California Revenue and Taxation Code.

AGREEMENT

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

1. Recitals. The Recitals set forth above are true and accurate and are an integral part of this agreement.

2. Effective Date and Term of Agreement. This agreement shall be effective and commence on _____, 2017, and shall remain in effect for a term of ten (10) years thereafter. Each year upon the anniversary of the effective date, such initial term will automatically be extended as provided in Paragraph 3 below.

3. Renewal. Each year on the anniversary of the effective date of this agreement (hereinafter referred to as the "renewal date"), a year shall automatically be added to the initial term of this agreement unless notice of nonrenewal is as provided herein. If either Owner or City desires in any year not to renew the agreement, Owner or City shall serve written notice of nonrenewal of the agreement on the other party in advance of the annual renewal date of the agreement. 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 automatically be added to the term of the agreement as provided herein. Upon receipt by Owner of a notice of nonrenewal from City, Owner may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice to Owner of nonrenewal. 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.

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

a. Owner shall rehabilitate, preserve and maintain the historically significant characteristics of the Historic Property. Attached hereto, marked as Exhibit "A" and incorporated herein by this reference is a list of those items for rehabilitation, restoration and maintenance planned for preservation of the Historic Property and a timeline for completion, which shall apply to such property throughout the term of this agreement.

b. Owner shall, additionally and where necessary, restore and rehabilitate the property according to the rules and regulations of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and the State Historic Building Code and shall maintain the entire property according to minimum standards and conditions, attached hereto, marked as Exhibit "B".

c. Owner shall allow reasonable periodic examinations, by prior appointment given at minimum 24 hours in advance, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Office of Historic Preservation, State Board of Equalization and City, as may be necessary to determine Owner's compliance with the terms and provisions of this agreement.

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

6. Notification to State Office of Historic Preservation. City shall provide written notice of the Agreement to the State Office of Historic Preservation within six (6) months of the effective date of the Agreement.

7. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Sections 50280, et seq., may cancel this agreement if it determines that Owner breached any of the conditions of this agreement and has failed to cure said breach after notice, as set forth in Paragraph 8 below, or has allowed the property to deteriorate to the point that it no longer meets the criteria for a qualified historic property. City may also cancel this agreement if it determines that the Owner has failed to restore or rehabilitate the property in the manner specified in subparagraph 4(a) and (b) of this agreement. 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., including but not limited to a cancellation fee of twelve and one-half percent (12.5%) of the current fair market value of the Property at the time of cancellation, as determined by County Assessor without regard to any restrictions on the Property imposed pursuant to this Agreement.

8. Enforcement of Agreement. In lieu of and/or in addition to 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 breach by Owner under the provisions of this agreement, City shall give written notice to Owner by registered or certified mail to the address stated in this agreement, which notice shall specifically identify the alleged breach and the proposed action which City recommends to Owner to cure said alleged breach. Owner shall thereafter have sixty (60) days within which to cure such breach to the reasonable satisfaction of the City. Upon completion by Owner of the cure of the breach, City shall withdraw its notice of breach.

Should owner not cure within the time period specified above, such breach as set forth above, 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 Owner arising 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 other relief as may be appropriate. City may at its sole discretion extend the 60-day cure period. Such extension must be in writing.

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 the 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 of any breach or default under this agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

9. Binding Effect of Agreement. The Owner hereby subjects the Historic Property to the covenants, reservations and restrictions as set forth in this agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that 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.

10. 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.

To City: City of Arcata Community Development Department
736 F Street
Arcata, CA 95521
Attn: Planner Assigned to Mills Act Admin.

To Owner: John Q. Public
1234 America Ave.
Arcata, CA 95519

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 nor any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.
- b. Owner agrees to and shall hold City and its elected officials, officers, agents and employees harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of his contractor, subcontractor, agent, employee or other person acting on his behalf which relate to the use, operation and maintenance of the Historic Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, employees and agents with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of Owner's activities in connection with the 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 whether or not the City prepared, supplied or approved the plans, specifications or other documents for the 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 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.
- d. 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 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 of 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 construed and governed in accordance with the laws of the State of California.

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

IN WITNESS WHEREOF, the person executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

DESIGNATED REPRESENTATIVES:

Executed in Arcata, California on _____ (date)

CITY:

By: Karen Diemer

Signature: _____

City Manager

Date: _____

PROPERTY OWNER:

By:

Signature: _____

Mills Act Property Owner

Date: _____

Approved as to form:

By: Nancy Diamond

City Attorney

Date: _____

HISTORIC PROPERTY AGREEMENT
EXHIBIT A

Address of Property: 1234 America Ave., Arcata

<u>Work Item</u>	<u>Completion</u>
1. Replace vanity in bathroom with period appropriate sink. Replace toilet. Properly prep and paint bathroom; replace bath tub fixtures and hardware	2018
2. Replace kitchen swinging door and door to hallway with period appropriate; add door to utility porch, and add door to the outdoors from utility porch. recreate kitchen cabinets to the design of the 1 extant original cabinet; replace counters with wood counters; add wall between kitchen and utility porch, new sink	2023
3. Rebuild chimney to working condition	2025
4. Restore rafter tails and lookouts to their original appearance; remove metal fascia	2026
5. Restore and repair pocket windows	2026
6. Repair foundation at northeast and southwest corners and bolt entirety to house	2026
7. Re-roof with rolled composite material as original; replace gutters and downspouts on house and garage	2026
8. Replace non-original windows on north elevation with period-appropriate wood windows	2026
9. Properly add electric capacity to garage; repair garage doors	2026
10. Add solar energy system ensuring any roof panels are on the rear, non-visible surfaces of the roof	2026
11. Replace doors of storm cellar with period appropriate doors	2026
12. Properly prepare and repaint house and garage	2026
13. Replace all existing window screens with wood-framed screens	2026

Work Item: The methods and materials for completing the above work items shall be subject to review and approval by the City prior to commencement of work. All work shall comply with the Secretary of the Interior's Standards for Rehabilitation of Historic Buildings. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

Completion Date: Work shall be completed by the specified date unless the Owner requests a change to a later completion date in writing and the City agrees to a later completion date. Non-compliance with this requirement may constitute grounds for a termination of the Historic Property Contract by the City.

HISTORIC PROPERTY AGREEMENT
EXHIBIT B

Maintenance and Rehabilitation Standards and Conditions

Secretary of the Interior's Standards for Rehabilitation

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 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 the deterioration requires the replacement of a distinctive feature, the new features 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 archaeological 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 a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Property Maintenance

All buildings, structures, yards and other improvements shall be maintained in a superior manner. All current building and zoning codes will be enforced. The following conditions are prohibited:

1. Dilapidated buildings or features such as fences, roofs, doors, wall and windows.
2. Abandoned or discarded objects, equipment or materials such as automobiles, automobile parts, furniture, appliances, containers, lumber or similar items stored outdoors but within property lines.
3. Stagnant water or open excavations.
4. Any device, decoration or structure, which is unsightly by reason of its height, condition or location.
5. Peeling exterior paint or unremoved/uncovered graffiti.
6. Overgrown landscaping, exposed bald areas within yards or grounds and broken hardscape features that could cause injury.

Conditions

This property agreement provides property tax reduction in exchange for agreement to rehabilitate and maintain an historic building's fabric and character. Existing condition not in conformance with the secretary of the Interior's Standards may be required to be removed and the original conditions remedied as part of this contract.