

Recording Requested by:  
City Clerk  
City of Brea

When recorded mail to:  
1 Civic Center Circle  
Brea, CA 92821

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**HISTORIC PROPERTY PRESERVATION AGREEMENT  
(MILLS ACT CONTRACT)**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, by and between the City of Brea (“City”) and a municipal corporation of the State of California, and \_\_\_\_\_ (“Owner”).

**A. RECITALS**

- (i) California Government Code Section 50280, et seq. authorizes cities to enter into contracts with the owners of qualified historical properties to provide for the use, maintenance, and restoration of such historical properties so as to retain their characteristics as properties of historical significance.
- (ii) Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, Assessor Parcel No. \_\_\_\_\_, and generally located at the street address \_\_\_\_\_, Brea California (the “Historic Property”). A legal

description of the Historic Property is attached hereby marked Exhibit “A” and is incorporated by this reference.

(iii) The above property had been declared and designated as a Historic Resource pursuant to Brea City Code Chapter 20.60 et seq., and which satisfies the requirements of Government Code Section 50280.1 to be deemed a Qualified Historical Property; and

(iv) City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of historical significance of the Historical Property and to qualify the Historical 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 and to carry out the purposes of Article 12 (commencing with Section 50280) of Chapter 1, Part 1, of Division 1 of Title 5 of the California Government Code.

**B. AGREEMENT**

NOW THEREFORE, in consideration of the mutual benefits and covenants, City and Owner agree as follows:

1. TERM. The term of this contract is for a minimum period of 10 years, renewable each year, in perpetuity or until canceled. The term of this Agreement shall be from \_\_\_\_\_19\_\_, to and including \_\_\_\_\_, 20\_\_.
2. AUTOMATIC RENEWAL. On each anniversary of the effective date of this Agreement (hereinafter referred to as the “renewal date”), one

year shall be added automatically to the initial term of this Agreement, unless notice of non-renewal is given as provided in this Agreement.

3. NOTICE OF NONRENEWAL. If in any year either the Owner or City desires not to renew this Agreement, that party shall serve written notice of nonrenewal on the other party in advance of the annual renewal date. Unless the notice is served by Owner on City at least 90 days, or by City on Owner at least 60 days, prior to the renewal date, one year shall automatically be added to the term of this Agreement. Within 15 days of receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. Upon receipt of such protest, the City Council shall set a public hearing to be held prior to the expiration of the renewal date of this Agreement or toll the renewal date until such hearing can reasonably be held. Owner may furnish the City Council with any information which the Owner deems relevant and shall furnish the City Council with any information it may require. At any time prior to the renewal date, City may withdraw its notice of nonrenewal.

4. EFFECT OF NOTICE NOT TO RENEW. If in any year either party serves notice of intent not to renew this Agreement, this Agreement shall remain in effect for the balance of the ten-year term remaining since the original execution date if not yet renewed, or the last renewal date of the Agreement.

5. STANDARDS FOR HISTORIC PROPERTY. During the term of this Agreement, this Historic Property shall be subject to the following conditions, requirements and restrictions;

a. Owner shall preserve and maintain the characteristics of cultural and historical significance of the Historic Property. Attached hereto, marked as Exhibit B, and incorporated herein by this reference, is a list of those minimum standards and conditions for maintenance, use and preservation of the Historic Property, which shall apply to such property throughout the term of this Agreement. In addition, Owner shall comply with the terms of the City's Historic Preservation Ordinance requiring Owner to maintain the Historic Property in a good state of repair and shall obtain any applicable permits to restore the property to maintain its historic and cultural significance.

b. Owner shall submit annually to the Development Services Director a report which shall specify all work completed during the year to fulfill the requirements of this Agreement as outlined in Exhibit B and D for compliance review by City staff. Furthermore, Owner shall, within six (6) months of the effective date thereof, provide a copy of this Agreement to the State of California Office of Historical Preservation.

c. Owner shall, where necessary, 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 and the City of Brea. The condition of the exterior of the property, as of the effective date of this Agreement, is documented in photographs attached as Exhibit C. At a minimum, Owner shall continually maintain the Historic Property in the same condition as documented in Exhibit C.

d. Owner shall carry out specific restoration projects on the property as outlined by the City in Exhibit D, in accordance with the Secretary of Interior Standards for Historic Restoration (Exhibit E).

e. 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 landmark by the public.

f. Owner shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Department of Parks and Recreation, State Board of Equalization, and the City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

g. Owner shall, at all times, act in conformance with all provisions of local, state and federal laws and the provisions of this Agreement, throughout the term of this Agreement.

6. PROVISION OF INFORMATION. Owner hereby agrees to furnish City with any and all information requested by the City, which may be necessary or advisable to determine compliance with the terms and provisions of this Agreement.

7. PAYMENT OF FEE. The Owner shall pay the City an application and processing fee of \$200.00, which fees do not exceed the reasonable cost of administering the Agreement and performing required inspections as work is completed. Said fee shall be made payable to the City of Brea and shall be remitted to the Planning Division upon receipt of the completed application.

8. CANCELLATION. City, after conducting a duly noticed public hearing as set forth in California 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 historic property to deteriorate to the point that it no longer meets the standards for a qualified historic property, or the historic property, for any other reason is no longer designated to be a qualified historical property. In addition, City may cancel this Agreement if it determines that the Owner has failed to restore or rehabilitate the property in the manner specified in subparagraph 5 of this Agreement. In the event of cancellation, Owner shall be subject to payment of those cancellation fees set forth in California Government Code Section 50286, which states that the fee shall be 12 ½% of the full value of the property as determined by the County Assessor at the time of cancellation, but without regard as to any restriction imposed by this Agreement.

Notwithstanding the foregoing, however, in the event the Historic Property becomes the subject of eminent domain, the City may cancel this Agreement as provided for in California Government Code 50288. In such event, neither party shall have any further obligation to the other under this Agreement.

9. ENFORCEMENT OF AGREEMENT. In lieu of and/or in addition to any provisions related to cancellation of 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 this Agreement, and if such a violation is not corrected to the reasonable satisfaction of the City 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 Agreement and may bring any action necessary to specifically enforce the obligations of Owner growing out of terms of this Agreement, and may 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 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 sites are available to the City to pursue in the event of 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. The Owner hereby voluntarily subjects the 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, heirs and assigns in title or interest to the 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 whether or not such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

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 be later specified by the parties hereto.

To City: City of Brea  
1 Civic Center Circle  
Brea, CA 92821  
Attn: Development Services Director

To Owner: Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

12. NO COMPENSATION. Owner shall not receive any payment from the City in consideration of the obligations imposed under this Agreement. The consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to Owner as a result of the effect upon the assessed value of the Historic Property.

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 hereto to be considered joint venturers or members of any joint enterprise.

14. INDEMNITY OF CITY. Owner agrees to protect, defend, indemnify and hold harmless the City and its elected officials, officers, agents and employees from liability for claims, loss, proceedings, damages, causes of action, costs or expense, including reasonable attorney's fees in connection with 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. This indemnity 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 the plans, specifications or other documents for the Historic Property.

15. SUCCESSORS, HEIRS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of all successors, heirs and assigns in interest, of the Owner and each shall have the same rights and obligations under this Agreement as the original owner who entered into this Agreement.

16. RECORDATION. No later than twenty (20) days after the parties execute and enter into this Agreement, City shall cause this Agreement to be recorded in the office of the County Recorder of the County of Orange.

17. AMENDMENTS. This Agreement may be amended, in whole or in part, only by a written and recorded instrument by the parties hereto.

18. ATTORNEY FEES.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto on the day and year first written above.

City of Orange

By \_\_\_\_\_  
Mayor

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney

ATTEST:

\_\_\_\_\_  
City Clerk

Owner:

\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

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Notary Public

S:\Historic Property Preservation Agreement

SAMPLE

EXHIBIT A

**HISTORIC PROPERTY LEGAL DESCRIPTION**

SAMPLE