

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Community Development Department
Attn: Don Lauritson
City of Salinas
65 West Alisal Street, 2nd Floor
Salinas, California 93901

SPACE ABOVE THIS LINE FOR RECORDER'S USE

RECORDING REQUESTED PURSUANT
TO GOVERNMENT CODE SECTIONS
6103 and 27383

HISTORIC MILLS ACT PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, ____, by and between the CITY OF SALINAS, a municipal corporation (“City”) and Pedro S. Wolf and Marie M. Osborn (collectively, “Owner”).

RECITALS

A. California Government Code section 50280, et seq. authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so to retain its characteristics as property of historical significance;

B. Owner holds fee title in and to that certain real property, together with associated structures and improvements thereon, generally located at the street address 147 Central Avenue, Salinas, California (the “Historic Property”). A legal description of the Historic Property is attached hereto, marked as Exhibit “A” and is incorporated herein by this reference;

C. On ____ (date) the City Council of the City of Salinas (“City Council”) adopted its Resolution No. ____ thereby declaring and designating the Historic Property as an historic site, pursuant to Article XI, Section 2-62 of the City’s Zoning Ordinance. The Historic Property is a qualified historical property pursuant to California Government Code section 50280.1.

D. 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 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. Effective Date and Term of Agreement. This Agreement shall be effective and commence on January 1, 20__ (“Effective Date”) 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 2, below.

2. Renewal. On each anniversary of the Effective Date (hereinafter referred to as the “Renewal Date”), an additional one year term shall automatically be added to the term of this Agreement unless a notice of nonrenewal (“Notice of Nonrenewal”) is served as provided herein. If either Owner or City desires in any year not to renew this Agreement for an additional one-year term, Owner or City shall serve a written Notice of Nonrenewal upon the other party in advance of the Renewal Date. Such Notice of Nonrenewal shall be effective if served by Owner upon City at least ninety (90) days prior to the Renewal Date, or if served by City upon Owner, such Notice of Nonrenewal shall be effective if served upon Owner at least sixty (60) days prior to the Renewal Date. If either City or Owner timely serves a Notice of Nonrenewal in any year, this Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal date of this Agreement, whichever may apply.

2.1 Owner Protest of City Nonrenewal. Within fifteen (15) days after receipt by Owner of a Notice of Nonrenewal from City, Owner may make and file a written protest of the Notice of Nonrenewal. Upon receipt of such protest the City Council shall set a hearing prior to the expiration of the Renewal Date of this Agreement. Owner may furnish the City Council with any information which the Owner deems relevant, and within ten (10) days after demand shall furnish the City Council with any information the City Council may require. The City Council may, at any time prior to the Renewal Date of this Agreement, but without obligation to do so, withdraw its Notice of Nonrenewal.

3. Assessment of Valuation. The parties acknowledge that Owner, in consideration for abiding by the terms of this Agreement, shall be entitled to apply for a reassessment evaluation of the Historic Property pursuant to the provisions of Sections 439 et. seq. of the California Revenue and Taxation Code. Owner acknowledges that tax relief afforded to the Owner pursuant to Chapter 3, Part 2, of Division 1 of the California Revenue and Taxation Code may require negotiation with the Monterey County Assessor’s Office. All tax savings realized by Owner in connection with this Agreement shall be used to preserve, maintain, repair, restore and rehabilitate the Historic Property within twelve (12) months following the tax year in which such tax savings is realized.

4. Standards for Historical Property. Owner shall preserve, repair and maintain the Historic Property and its Character Defining Features (defined below) as a qualified historic property, in no less than equal to the condition of the Historic Property on the Effective Date. Owner shall, where necessary, restore and rehabilitate the property according to the rules and

regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation and Restoration, the State Historical Building Code, and the City's Historic Site and Neighborhood Combining Districts section of the City's Zoning Ordinance, as the same may be amended from time to time, and in accordance with the attached ten year schedule of home repair, maintenance and improvement measures prepared by Owner and approved by the City Council, attached hereto as Exhibit "B." Commencing on the fifth anniversary of the Effective Date, and continuing every five (5) years thereafter during the term of this Agreement, Owner shall submit to City an updated ten (10) year schedule of potential home repair, maintenance and improvement measures for the upcoming ten (10) year period, which schedule shall also document all repairs, maintenance, and improvements which have been completed since the Effective Date. Character Defining Features means all historic or other architecturally significant aspects of the Historic Property, including without limitation, the general architectural form, style, materials, design, scale, details, mass, roof line, porch, exterior vegetation and other aspects of the appearance of the exterior and interior of the Historic Property. The Secretary of Interior's Standards for Rehabilitation and Restoration currently in effect (attached hereto and marked as Exhibit "C") shall be incorporated herein by reference and constitute the minimum standards and conditions for the rehabilitation and restoration of the Historic Property. All standards referred to in this Section 4 shall apply to the Historic Property throughout the term of this Agreement. Owner shall not obstruct or obscure the public's ability to view the exterior of the Historic Property from the public right-of-way. Such prohibition shall include, without limitation, a prohibition against the placing of trees, bushes or fences in a location which substantially obscures or obstructs the view from the public right-of-way of the exterior of the Historic Property.

5. Periodic Examinations. Owner shall allow reasonable periodic examination, by prior appointment, of the interior and exterior of the Historic Property by representatives of the Monterey County Assessor, State Department of Parks and Recreation, State Board of Equalization, and/or the City Community Development Department, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

6. Provision of Information of Compliance. Within ten (10) days after request by City, Owner shall furnish City with any and all information requested by the City from time to time which City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.

7. Cancellation. City, following a duly noticed public hearing, as set forth in California Government Code Sections 50285, et seq., may cancel this Agreement if it determines that Owner breached any of the provisions 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 and such breach is not cured by Owner within thirty (30) days after City gives Owner notice that a breach has occurred. City may also cancel this Agreement if it determines that the Owner has failed to maintain, preserve, restore or rehabilitate the Historic Property in accordance with the terms of this Agreement and such breach is not cured by Owner within thirty (30) days after City gives Owner notice that a breach has occurred. If this Agreement is canceled because

of failure of the Owner to maintain, preserve, restore and rehabilitate the Historic Property as specified above, the Owner shall pay a cancellation fee to the Monterey County Auditor as set forth in Government Code Section 50286 as the same may be amended or replaced from time to time.

8. Destruction. Notwithstanding any provision of this Agreement to the contrary, the Owner may cancel this Agreement without payment of the cancellation fee set forth in Section 7, if the existing single-family residence (the "Structure") on the Historic Property is damaged by fire, earthquake, or other Act of God or accidental cause to the extent (1) the then fair market value of said Structure is reduced by fifty-one percent (51%) or more; or (2) fifty-one percent (51%) or more of said Structure's floor area is destroyed or irreparably damaged; or (3) fifty-one percent (51%) or more of the Structure's Character Defining Features are destroyed or irreparably damaged; or (4) that the cost to the Owner (less any insurance proceeds payable in connection with such damage) to restore the Structure to its prior condition would exceed Ten Thousand Dollars (\$10,000). If the Owner desires to cancel this Agreement under this Section 8, written notice shall be given to the City within ninety (90) days after such damage or destruction occurs.

If the Owner desires to cancel this Agreement due to the circumstances outlined in this Section 8, either party may request a hearing before the City Council to determine (a) the extent of diminution of value, (b) the extent of the damage or destruction to the floor area of the Structure, and/or (c) extent of damage or destruction to the Character Defining Features of the Structure. The City Council may refer any matter relating to (c) to the City's Historic Resources Board for its findings and recommendations.

If Owner does not cancel this Agreement pursuant to this Section within ninety (90) days after damage or destruction occurs, or the damage or destruction does not exceed the thresholds set forth in the first paragraph of this Section, Owner shall have a reasonable time, not to exceed four (4) months, in which to restore the structure to not less than the condition existing prior to such damage or destruction.

9. Enforcement of Agreement. City may specifically enforce, or enjoin the breach of, the terms of this Agreement, if Owner fails to cure any default under this Agreement within thirty (30) days after City gives Owner notice that Owner has breached any of Owner's obligations under this Agreement. If Owner's breach is not corrected to the reasonable satisfaction of the City within thirty (30) days after the notice of breach is given to Owner, then City may, without further notice, declare a default under the terms of this Agreement and bring any action necessary to specifically enforce the obligations of Owner or enjoin any breach under this Agreement, including, but not limited to, bringing an action for injunctive relief against the Owner or such other relief as City may deem appropriate.

City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement upon a default by Owner. All other remedies at law or in equity which are not otherwise provided for in this Agreement shall be available to the City to pursue if there is a default of this Agreement by Owner. No waiver by City or any breach or default under this

Agreement by Owner shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

10. Binding Effect of Agreement; Covenants Running With the Land. 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 the value of the Owner's legal interest in the Historic Property may be affected 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.

11. Cost Reimbursement. Owner shall, within ten (10) days after demand, reimburse City for all reasonable legal fees and costs and all staff time and costs incurred by City in connection with the preparation and review of this Agreement and the administration of the Agreement during the term of this Agreement.

12. Notice. Any notice required to be given by the terms of this Agreement shall be in writing and sent by personal delivery or by United States registered or certified mail, postage prepaid, return receipt requested, addressed as set forth in this Section 12 below at any other address as may be later specified by the parties hereto by notice given in the manner required by this Section 12.

To City:

City of Salinas
65 W. Alisal Street, 2nd Floor
Salinas, CA 93901
Attn: City Community Development Director

To Owner:

Pedro S. Wolf and Marie M. Osborn
147 Central Avenue
Salinas, CA 93901

Mailed notices shall be deemed delivered three (3) days after the date of posting by the United States Post Office.

13. Notice to Office of Historic Preservation. Owner shall provide written notice of this Agreement and shall provide a copy of this Agreement to the Office of Historic Preservation of the Department of Parks and Recreation of the State of California within six (6) months following the Effective Date.

14. Effect of Agreement. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto or 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.

15. Indemnity of City. Owner shall protect, defend, indemnify, and hold City and its elected officials, officers, agents and employees harmless from liability for claims, losses, proceedings, damages, causes of action, liabilities, costs or expense, including reasonable attorneys' fees, which may arise directly or indirectly from the negligence, willful misconduct or breach of this Agreement by Owner or Owner's contractors, subcontractors, agents, employees or other persons acting on Owner's behalf in connection with the Historic Property, or which arise directly or indirectly in connection with Owner's activities in connection with the Historic Property. This Section 15 applies, without limitation, to all damages and claims for damages suffered, or alleged to have been suffered regardless of whether or not the City prepared, supplied or approved any plans, specifications or other documents for the Historic Property.

16. 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 named herein, their heirs, successors, legal representatives, and assigns and all persons acquiring any part or portion of the Historic Property, whether voluntarily or involuntarily, by operation of law or in any manner whatsoever.

17. Legal Costs. If legal proceedings are brought by Owner or City 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 attorneys' fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

18. Severability. If 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.

19. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of California.

20. 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 Monterey, California.

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

22. Captions. Section headings and captions of this Agreement are for convenience of reference only and shall not be considered in the interpretation of any of the provisions of this Agreement.

OWNER:

Dated: _____, 2017

By: _____

Name_ Pedro S. Wolf

Dated: _____, 2017

By: _____

Name_ Marie M. Osborn

CITY:

Dated: _____, 2017

CITY OF SALINAS, a municipal corporation

By: _____

Name: _____

Its: _____

Attest:

By: _____

Name: _____

Its: City Clerk

Approved as to Form:

By: _____

Name: _____

Its: City Attorney

Insert Notary Form (2016)

EXHIBIT "A"

LEGAL DESCRIPTION

That certain parcel of land in the City of Salinas, County of Monterey, California, more particularly described as follows:

Lot 12, Block 9, designated on the map entitled "Map of Stone's Addition to Salinas City, Monterey County, Cal., Surveyed by Wm. Isaacs, July 1873", filed for record August 15, 1873 in the office of the County Recorder of the County of Monterey, State of California, in Volume 1 of Maps, "Cities and Towns", at Page 9.

EXHIBIT “B”

SCHEDULE OF IMPROVEMENTS
[To Be Attached]

MILLS ACT CONTRACT NO. M 2017-011

PROPERTY ADDRESS – 147 CENTRAL AVENUE

OWNER shall expend the amount equal to a minimum of the estimated 10-year tax savings (\$32,000) attributed to the Contract for the preservation and maintenance of the Historic Resource. The rehabilitation of the Historic Resource shall be completed on or before the timetable below. Such rehabilitation shall include all of the tasks listed below.

Years	Improvement Description
1-3	Reroof house (Cost Estimate - \$37,000-44,000) Foundation repairs including bolting house to the foundation for earthquake protection, raising floor supports off dirt, treatment or replacement of floor supports to prevent termite damage, installation of drainage improvements to keep underfloor area dry (Cost Estimate – \$3,000-4,000)
4-6	Remove and replace front porch two-by-four railings with more appropriate historic design and materials; replacement of back porch steps with more appropriate historic design and materials (Cost Estimate - \$ 5,000) Chimney reconstruction – remove cap from existing chimney and restore the chimney to original condition, as seen in historical pictures (Cost Estimate - \$ 5,000)
7-10	Exterior Painting if Necessary (Cost Estimate - \$20,000)

EXHIBIT "C"

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION AND RESTORATION

Rehabilitation:

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
3. Each property will 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 elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Restoration:

1. A property will be used as it was historically or be given a new use that interprets the property's restoration period.
2. Materials and features from the restoration period will be retained and preserved. The removal of materials or alterations of features, spaces and spatial relationships that characterize the period will not be undertaken.
3. Each property will be recognized as a physical record of its time, place and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection and properly documented for future research.
4. Materials, features, spaces and finishes that characterize other historical periods will be documented prior to their alteration or removal.
5. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.
6. Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.
7. Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.
8. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
9. Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
10. Designs that were never executed historically will not be constructed.