

RESOLUTION NO. _____ (N.C.S.)

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALINAS, CALIFORNIA,
ESTABLISHING THE APPLICATION PROCESS, REVIEW PROCEDURES AND
REQUIRED CONTRACT PROVISIONS FOR A FIVE-YEAR SALINAS MILLS ACT
PROGRAM PURSUANT TO SALINAS MUNICIPAL CODE CHAPTER 2, ARTICLE
XI, SECTION 2-71**

WHEREAS, California Government Code section 50280, et seq. (the Mills Act) 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; and

WHEREAS, the City of Salinas General Plan and Zoning Ordinance contain policies and regulations to promote the preservation, maintenance, rehabilitation, and restoration of historic properties within the City limits; and

WHEREAS, pursuant to City of Salinas Code Chapter 2, Article XI, Section 2-62 has established procedures to identify and designate historic resources within the City; and

WHEREAS, the City recognizes that the reduction in property taxes provided by the Mills Act will act as a monetary incentive to acquire, designate, maintain, and rehabilitate historic property; and

WHEREAS, Mills Act preservation agreements will have beneficial effects on residential neighborhoods, businesses, community pride, and regional image; and

WHEREAS, City of Salinas Municipal Code Chapter 2, Article XI, Section 2-71 states that the application process, review procedures and required contract provision for preservation agreements shall be established by separate resolution of the City Council; and

WHEREAS, the proposed program and ordinance amendments are categorically exempt (Classes 5 and 31) from further environmental analysis per CEQA Guidelines Sections 15035 (Minor Alterations in Land Use Limitations) and 15331 (Historic Resource Restoration/Rehabilitation); and

WHEREAS, on December 7, 2015, the Historic Resources Board conducted a public hearing and voted unanimously to recommend City Council approval of a Mills Act Program; and

WHEREAS, on June 1, 2016, the Planning Commission conducted a public hearing and voted unanimously to recommend City Council approval of a Mills Act Program; and

WHEREAS, the City Council conducted a public hearing on June 28, 2016 to consider the ordinance amendment to establish a Mills Act program; and

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Salinas as

follows:

Section 1. MILLS ACT PROGRAM. The City establishes a five-year pilot Mills Act Program for the City, which will be considered for continuation in 2022 after review of the experience between 2016 and 2022.

Section 2. PROPERTY TAX CONTRIBUTION LIMITATION. The City will limit Mills Act related property tax contributions by the City to \$100,000/year or less. Applications will be accepted during the months of May, June and July only. If the number of applicants exceed the tax contribution limit, then eligible applications will be selected based upon the order by which they are received.

Section 3. CONTRACTS TO RESTRICT USE OF QUALIFIED HISTORICAL PROPERTY. Upon the application of an owner or the agent of an owner of any qualified historical property, the City Council may contract with the owner to restrict the use of the property for its preservation, restoration and rehabilitation as set forth in Section 5 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.

Section 4. QUALIFIED HISTORICAL PROPERTY. "Qualified historical property" for purposes of this chapter, means privately owned property which is not exempt from property taxation and which meets City of Salinas Code Chapter 2, Article XI, Section 2-62.

Section 5. REQUIRED CONTRACT PROVISION. 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 the periodic examinations of the interior and exterior of the premises by the assessor, the Community Development Department and the State Board of Equalization as may be necessary 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. (c) The owner or agent of an owner shall provide written notice of the contract to the State Office of Historic Preservation within six months of entering into the contract.

Section 6. APPLICATION PROCEDURE. Applications to Salinas shall be initially evaluated and reviewed by the Salinas Historic Resources Board. The Historic Resources Board shall hold a public hearing on every application for a Historic Preservation Contract. The public hearing shall be scheduled for a date not less than 10 days but not more than 90 days from the date the application is filed. After the hearing, the Historic Resources Board shall recommend to the Director of Community Development that the application be denied, granted in whole or in part, or modified subject to such conditions as it deems appropriate. The Director of Community Development shall make a recommendation to the City Council which has final authority to approve or deny a contract

if all of the conditions of this Resolution are met. The Director of Community Development shall be responsible for assuring performance of the Historic Property Preservation Contracts including contract administration, extension, cancellation, and enforcement.

Section 7. FEES TO BE PAID BY OWNER. As a condition of entering into the Historic Property Preservation Contracts, the property owner shall pay an application and processing fee to the City of Salinas, which is the reasonable cost of administrating the program. Said fee must be paid prior to processing the application.

Section 8. EXTENSION OR NON-RENEWAL OF CONTRACT; RECORDATION AND NOTICE OF CONTRACT. (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. If the property owner or the City 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 City 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 City of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The City may, at any time prior to the renewal date, withdraw the notice of nonrenewal. (c) If the City 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 City with any information the City shall require in order to enable it to determine the eligibility of the property involved. (e) No later than 20 days after the City enters into a contract with an owner pursuant to this article, the Clerk of the City 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.

Section 9. CANCELLATION OF CONTRACT FOR OWNERS' BREACH OF CONDITIONS. 4 The City may cancel a contract if it 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 City may also cancel a contract if it determines that the owner has failed to restore or rehabilitate the property in the manner specified in the contract.

Section 10. NOTICE AND HEARING BEFORE CANCELLATION OF CONTRACT. No contract shall be canceled under Section 9 until after the City 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 the qualified historic property and shall be published pursuant to California Government Code Sections 6060 and 6061.

Section 11. CANCELLATION FEE. (a) If a contract is canceled under Section 9, the owner shall pay a cancellation fee equal to 12 1/2 percent of the current fair market value of the property, as determined by the Assessor as though the property were free of the contractual restriction. (Gov. Code, § 50286.) (b) The cancellation fee shall be paid to the 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 provision of law, revenue received by a school district pursuant to this section shall be considered property tax revenue for the purposes of Section 42238 of the Education Code, and revenue received by a county superintendent of schools pursuant to this section shall be considered property tax revenue for the purposes of Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code.

Section 12. ACTION TO ENFORCE CONTRACT. As an alternative to cancellation of the contract for breach of any condition, the city, or any landowner 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.

Section 13. NULLIFICATION OF CONTRACT ON ACQUISITION OF PROPERTY BY EMINENT DOMAIN. 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 City Council to frustrate the purpose of the contract, such contract shall be canceled and no fee shall be imposed under Section 11. Such contract shall be deemed null and void for all purposes of determining the value of the property so acquired.

Section 14. RIGHTS OF CITY UPON ANNEXATION OF RESTRICTED PROPERTY. In the event that property restricted by a contract with Monterey 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.

Section 15. CONSULTATION. The City Council 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.

Section 16. HISTORIC PROPERTY PRESERVATION AGREEMENT. The Preservation Historic Preservation Agreement to be used in the Mills Act is attached as Exhibit "A." Pursuant to Salinas Municipal Code Chapter 2, Article XI, Section 2-71, the City Council hereby delegates to the Community Development Director or his/her designee the authority and responsibility to amend and modify the Preservation Agreement as deemed necessary and appropriate, in consultation with the City Attorney. The terms for the Preservation Agreement shall always comply with California Government Code, Article. 12, Section 50280 et seq. (known as the Mills Act) and Salinas Municipal Code Chapter 2, Article XI, Section 2-71. The maintenance, repair, rehabilitation, and/or restoration standards applicable to the subject property shall be set forth in the Preservation Agreement. In consideration for abiding with the terms of the Preservation Agreement, the owner of the subject property shall be entitled to quality for a reassessment of the historic property, pursuant to chapter 3, Page 2, of Division 1 of the California Revenue and Taxations Code.

Section 17. EFFECTIVE DATE. The provisions of this resolution shall become effective concurrent with the effective date of the amendment to Salinas Municipal Code Chapter 2, Article XI, Section 2-71.

PASSED AND ADOPTED this ____ day of _____, 2016, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED: _____
Joe Gunter, Mayor

ATTEST: _____
Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

Chris A. Callihan, City Attorney