

16a

RESOLUTION NO. 125 (1993)

ESTABLISHING MILLS ACT AGREEMENTS
FOR HISTORIC PROPERTY PRESERVATION

RESOLVED, by the Council of the City of San Mateo, California, that;

WHEREAS, the General Plan Open Space and Conservation Element and Downtown Specific Plan include policies to preserve and protect historic structures;

WHEREAS, the City Council finds that the protection, perpetuation and use of historic structures is of economic, cultural and aesthetic benefit to the City;

WHEREAS, California Government Code Sections 50280 et. seq. (commonly known as the 'Mills Act') authorize cities to enter into contracts with the owners of qualified historical property to provide for such property's use, maintenance and restoration so as to retain its characteristics as property of historical significance;

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that:

1. This action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) as a Class 8 exemption (Section 15308 of the CEQA Guidelines), Actions by Regulatory Agencies for Protection of the Environment.

2. The City Council authorizes, by at least a majority of its members, the use of the agreements for historic property preservation as specified in California Government Code Sections 50280, et. seq., for properties listed in the National Register of Historic Places, located within a National Register Historic District, or identified as an "individually eligible" or "contributor" building in the City of San Mateo Historic Building Survey Final Report (Sept. 1989) or as subsequently identified by City Council resolution.

3. All such agreements shall be subject to the review and approval of the City Council, and shall be in substantial compliance with the form agreement provided in Exhibit A.

4. The City shall establish a reasonable fee to pay for the cost of administering the such agreements.

Jane Baker
Mayor

ATTEST:
[Signature]
City Clerk

RECORDING REQUESTED BY
and when
RECORDED MAIL TO:
City Clerk, City of San Mateo
330 West Twentieth Avenue
San Mateo, CA 94403

HISTORIC PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____,
1993, by and between the CITY OF SAN MATEO, a municipal
corporation (hereinafter referred to as the "City") and _____
_____ (hereinafter referred to as the "Owner").

WITNESSETH:

A. Recitals.

(i) 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 as to retain its
characteristics as property historical significance;

(ii) Owner possesses fee title in and to that certain
real property together with associated structures and
improvements thereon, commonly known as the _____ and
generally located at the street address _____,
San Mateo CA _____, (hereinafter such property shall be referred
to as the "Historic Property"). A legal description of the
Historic Property is attached hereto, marked as Exhibit "A" and
is incorporated herein by this reference;

(iii) On July 17, 1990, the City Council of the City of San Mateo adopted its Resolution No. 77 (1990) Adopting the Revised City of San Mateo General Plan thereby identifying all "individually eligible" and "contributor" historic structures based on the 1989 City of San Mateo Historic Building Survey Final Report;

(iv) The historic property is identified as an "individually eligible" or "contributor" building in the General Plan;

(v) 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.

B. 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 _____, 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 paragraph 2, below.

2. 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 mailed 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. 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.

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

a. Owner shall preserve and maintain the characteristics of 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.

b. Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation (Secretary of Interior's Rehabilitation Standards) and the Secretary of the Interior's Guidelines for Rehabilitating Historic Buildings, and in accordance with the attached schedule of potential home improvements, drafted by the applicant and approved by the City Council, attached hereto as Exhibit "C".

c. Owner shall not make any property improvements, other than those specified in Exhibit "C", without the approval of the City. All exterior modifications not specified in Exhibit "C" shall require the approval of a Site Plan and Architectural Review;

d. 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.

e. Owner shall allow public access three times a year, to be scheduled in conjunction with the City, San Mateo County Historical Association or other non-profit organizations.

4. National Register Nomination. Owner agrees to submit property for nomination to the National Register of Historic Places within three (3) months of the effective date of this contract.

5. Provision of Information of Corporation. 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.

6. 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 or has allowed the property to deteriorate to the point that it no longer meets the standards 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 3(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.

7. 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 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 thereafter or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach or default may 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 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 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 properties are available to the City to pursue in the event that there is 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 hereinafter.

8. Binding Effect of Agreement. The Owner hereby subjects the Historic 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 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 instruments 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.

9. 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 San Mateo
330 West Twentieth Avenue
San Mateo, CA 94403

Attention: Chief of Planning

To Owner:

10. 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 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 age 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 relates to the use, operation and maintenance of the Historic Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, agents, and employees 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 Historic 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 regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic 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.

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

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, City and Owner have executed this Agreement
on the day and year first written above.

CITY OF SAN MATEO

Dated: _____

By: _____
Jane Baker, Mayor

Dated: _____

By: _____
Owner

On this _____ day of 19__, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to me to be the Mayor of the City of San Mateo, a municipal corporation, and _____, known to me to be the City Clerk of the City of San Mateo, a municipal corporation, and said persons are known to me to be the persons who execute the within instrument on behalf of the City of San Mateo and acknowledged to me that the City of San Mateo executed the same.

Notary Public in and for said State

On _____ before me, the undersigned, a Notary Public in and for said State, personally appeared known to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that _____ executed the same.

Notary Public in and for said State

EXHIBIT A
Legal Description

EXHIBIT C
123 South B Street Property Improvements

List of specific improvements to property and structure, along with a schedule for completion.

* * *

Resolution adopted by the City Council of the
City of San Mateo, California, at a regular
meeting held on November 1, 1993, by the
following vote of the Council Members:

AYES: Council Members GUMBINGER,
HILL, RHOADS, MACK and BAKER

NOES: NONE

ABSENT: NONE