

Property/Structure Address: \_\_\_\_\_



# APPLICATION FOR MILLS ACT AGREEMENT

CITY OF BELVEDERE • BELVEDERE CITY COUNCIL  
450 SAN RAFAEL AVE • BELVEDERE, CA 94920-2336  
PH. 415-435-3838 • FAX 415-435-0430 • WWW.CITYOFBELVEDERE.ORG

## FOR STAFF USE ONLY

Date: \_\_\_\_\_ Rec'd. by: \_\_\_\_\_

Amount: \_\_\_\_\_ Receipt No.: \_\_\_\_\_

Parcel No.: \_\_\_\_\_ Zone: \_\_\_\_\_

## TO BE COMPLETED BY PROPERTY OWNER

Address of Property: \_\_\_\_\_

Historical Name of Property, If Known: \_\_\_\_\_

Record Owner of Property: \_\_\_\_\_

Mailing \_\_\_\_\_ Daytime Phone: \_\_\_\_\_

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

\_\_\_\_\_ Email: \_\_\_\_\_

Owner's Representative: \_\_\_\_\_

Mailing \_\_\_\_\_ Daytime Phone: \_\_\_\_\_

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

\_\_\_\_\_ Email: \_\_\_\_\_

Date Property/Structure Received Historic Designation and City Council Resolution Number: \_\_\_\_\_

- Attach legal description.

**STATEMENT OF PROPERTY OWNERSHIP,  
CERTIFICATION OF APPLICATION, & DESIGNATION OF REPRESENTATIVE**

All property owners must complete this Section.

Street address of subject property: \_\_\_\_\_

Assessor's Parcel No(s). of subject property: \_\_\_\_\_

➤ **Properties Owned by Individuals**

I, \_\_\_\_\_, state under penalty of perjury under the laws of the State of California that I am the record owner of the above-described subject property.

I have read and understood the attached Mills Act Agreement Facts and the specimen Mills Act Agreement and agree to the terms described therein.

I understand that the contents of this document are a public record.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at Belvedere, California.

Signature \_\_\_\_\_

➤ **Properties Owned by a Trust, LLC, Corporation, Partnership, or Other Entity**

*For properties owned by a trust, please attach the trust document or a certificate of trust, including any attachments thereto. For an LLC, corporation, partnership, or other entity, please attach proof of ownership and certification of the signer's authorization to enter into contracts on behalf of the entity.*

I, \_\_\_\_\_, state under penalty of perjury under the laws of the State of California that the above-described subject property is owned by a trust, LLC, corporation, partnership, or other entity and that my signature on this application has been authorized by all necessary action required by the LLC, corporation, partnership, or other entity.

I have read and understood the attached Mills Act Agreement Fact Sheet and the specimen Mills Act Agreement and agree to the terms described therein.

I understand that the contents of this document are a public record.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at Belvedere, California.

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Title(s) \_\_\_\_\_

Title(s) \_\_\_\_\_

Trustee(s)     Partners:  Limited or  General     Corporation     Other \_\_\_\_\_

Name of trust, LLC, corporation, or other entity: \_\_\_\_\_

Property/Structure Address: \_\_\_\_\_

➤ **Designation of Owner's Representative (Optional)**

I, \_\_\_\_\_, hereby authorize \_\_\_\_\_ to file on my behalf any applications, plans, papers, data, or documents necessary to obtain the Mills Act Agreement requested, and I further authorize said person to appear on my behalf before the Historic Preservation Committee and City Council. This designation is valid until the Mills Act Agreement is finally approved and executed by the City or until this designation of owner's representative is rescinded in writing.

Signature of Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Representative: \_\_\_\_\_ Date: \_\_\_\_\_

## **MILLS ACT AGREEMENT (MAA) FACT SHEET**

In 2004, the City Council of Belvedere adopted a resolution making historic preservation a goal of the City. To further encourage preservation of its historic properties, the City enacted an ordinance providing a 50% waiver on building related permit fees, up to \$10,000, for those properties that have received historic designation status from the City.

Another measure the City considers as an incentive to preserve historically significant properties is making Mills Act Agreements available to qualified properties. It is hoped that the opportunity to enter into a Mills Act Agreement with the City will be helpful to existing designated properties as well as urging others to apply for designation status and potentially a Mills Act Agreement (MAA).

### **PURPOSE OF THE MILLS ACT**

The Mills Act provides an important economic incentive program for the restoration and preservation of qualified historic properties for owners. It was enacted by the State, and allows a City to enter into an Agreement with owners of qualified historic properties.

The Mills Act Agreement is designed as an incentive to encourage preservation of Belvedere's most historically and architecturally important structures. Both the owner and the City must be committed to maintain, protect and preserve the property. To this end, as part of the Agreement, the owner must agree to periodic inspection, by appointment, of the interior and exterior of the property.

In return for this commitment, some of the benefits of entering into a Mills Act Agreement are:

- Helps preserve the valuable historic and architectural tapestry of the City.
- In most cases, it lowers the property taxes to be paid, sometimes quite dramatically.
- Makes more money available for maintenance and/or restoration thru tax savings.
- When a property under a Mills Act Agreement is sold, the property is not taxed at the selling price. The sell price is not a factor in taxes unless a Notice of Non-Renewal has been served. As a result, new owners continue to enjoy the existing reduced property tax rate. This savings can be a big selling point to potential buyers.

### **HOW DOES A PROPERTY QUALIFY FOR THE MILLS ACT?**

For a property to be eligible for a MAA, it must either be listed on the National Register of Historic Places or in any state, city or county official register of historical or architecturally significant landmarks. To become a designated historic property in Belvedere, a property owner must file a written request to be declared a designated structure with the Historic Preservation Committee and pay a filing fee of \$50.00. The Committee will survey the property and prepare a case report, using nationally recognized criteria, rating the property for designation. Ultimately, the Planning Commission and City Council must approve the designation.

Once becoming a designated historic property of the City of Belvedere, the owner can then voluntarily request to enter into a Mills Act Agreement with the City. The Historic Preservation

Committee may select properties for potential Mills Act Agreements through a drawing process and/or may reserve a portion of the property tax limit, established by the City Council, to encourage new property enrollment. Application forms will be available at City Hall.

**WHAT IS THE TERM OF A MILLS ACT AGREEMENT?**

Mills Act Agreements have a minimum term of 10 years and are automatically renewed annually for an additional year. The Historic Preservation Committee recommends that under a MAA with the City, the maximum term be 15 years, with a Notice of Non-Renewal served in the fifth year. For the purposes of this document, a “normal term” of a Mills Act Agreement is that time period prior to the issuance of a Notice of Non-Renewal. The Agreement is binding on the owner or any subsequent buyer. There is a fee of \$1,000 paid to the City for the cost of administering the MAA, which is paid upon initiation of the Agreement. A written notice of the original signing of the MAA must be provided to the Office of Historic Preservation within six months of entering into the Agreement, and a copy must also be provided and recorded in the Assessor’s Office. The Agreement must be entered into by January 1 to become effective July 1 of the same year, and to realize the tax savings for that year.

**WHAT ARE THE PROPERTY TAX BENEFITS OF A MILLS ACT AGREEMENT?**

A Mills Act Agreement requires the County Tax Assessor’s Office to determine the value of the historic property based upon its current potential income, rather than the Prop 13 formula generally applied. In most cases, there is significant reduction in property taxes based upon the Mills Act Assessment Method. For owner-occupied property, the income projection is based on comparable rents for similar property in the area, or, if insufficient rental information is available, the income that it would reasonably be expected to produce. Property tax payments for the remaining term of the Agreement are re-calculated each year based on this Capitalization of Income approach.

**Hypothetical Property Tax Calculation**

Current Assessed Valuation:		\$3,000,000.00
Current Taxes:	(\$3,000,000 x 1%)	\$30,000.00

**Recalculation using Mills Act Assessment Method**

Gross Income	(\$4,000 x 12)	\$48,000.00
Less expenses	(insurance, repairs, utilities)	\$9,810.00
Net Income		\$38,190.00
Capitalization Rate:	(6%, set by the State)	6.00%
New Valuation		\$636,500.00
New taxes	(\$636,500 x 1%)	\$6,365.00

**Hypothetical Savings in Property Taxes for the first year:** \$23,635.00

## WHAT IS THE EFFECT OF A NOTICE OF NON-RENEWAL?

On the anniversary date of the Agreement, a year is automatically added to the Agreement unless the owner or the City elects to serve a Notice of Non-Renewal. A Notice of Non-Renewal terminates the automatic renewal provision of the Agreement. As a result, the Agreement formally terminates after a period of 10 years from the effective date of the Notice of Non-Renewal. An **owner** may terminate the Agreement by serving a Notice of Non-Renewal at least 90 days prior to the anniversary date of the Agreement. The **City** may terminate the Agreement by serving a Notice of Non-Renewal at least 60 days prior to the anniversary date of the Agreement.

When a Notice of Non-Renewal is served, the Assessor's Office applies a re-evaluation formula that substantially increases the assessed value during the next year, and then provides for more gradual increases thereafter until the end of the contract. The effect on valuation and property tax payments for a \$3 million home after a Notice of Non-Renewal can be illustrated as follows:

Appraisal Year	Unrestricted Roll Value	Property Taxes	Mills Act Value	Transactional Influence	Cap. Rate	Factor	Transactional Value	Property Taxes	Potential Savings
2005	\$3,000,000	\$30,000	\$636,500					\$6,365	\$23,635
2006	\$3,060,000	\$30,600	\$663,000					\$6,630	\$23,970
2007	\$3,121,200	\$31,212	\$690,700					\$6,907	\$24,305
2008	\$3,183,624	\$31,836	\$719,900					\$7,199	\$24,637
2009	\$3,247,296	\$32,473	\$749,000	\$2,498,296	0.60	0.5919	\$1,478,737	\$14,787	\$17,686
2010	\$3,312,242	\$33,122	\$782,500	\$2,529,742	0.60	0.6274	\$1,587,191	\$15,872	\$17,251
2011	\$3,378,487	\$33,785	\$811,500	\$2,566,987	0.60	0.6651	\$1,707,193	\$17,072	\$16,713
2012	\$3,446,057	\$34,461	\$845,000	\$2,601,057	0.60	0.7050	\$1,833,644	\$18,336	\$16,124
2013	\$3,514,978	\$35,150	\$882,500	\$2,632,478	0.60	0.7473	\$1,967,140	\$19,671	\$15,478
2014	\$3,585,278	\$35,853	\$920,000	\$2,665,278	0.60	0.7921	\$2,111,150	\$21,112	\$14,741
2015	\$3,656,983	\$36,570	\$957,500	\$2,699,483	0.60	0.8396	\$2,266,537	\$22,665	\$13,904
2016	\$3,730,123	\$37,301	\$995,000	\$2,735,123	0.60	0.8900	\$2,434,248	\$24,342	\$12,959
2017	\$3,804,725	\$38,047	\$1,036,700	\$2,768,025	0.60	0.9434	\$2,611,344	\$26,113	\$11,934
2018	\$3,880,820	\$38,808	\$1,080,000	\$2,800,820	0.60	1.0000	\$2,800,820	\$38,808	\$0
2019	\$3,958,436	\$39,584							\$0
2020	\$4,037,605	\$40,376							\$0
								<b>Total Potential Savings:</b>	<b>\$233,337</b>

Assumptions: Prop. 13 Inflation – 3% ; Rent Increase – 4% Cap Rate 6% (can fluctuate)

Information for table provided by the County Assessor's Office.

A Notice of Non-Renewal allows the Assessor's Office to take into consideration the value of improvements that have been made to the property during the term of the MAA. During the normal valuation process under a MAA, the value of improvements are not taken into consideration by the Assessor as part of a yearly valuation of the property, unless the improvements could generate higher income rental. If the property is sold after issuance of a Notice of Non-Renewal, the sales price is factored into the valuation formula used by the Assessor. For more information on what the exact impacts would be to your property, you are encouraged to contact the County Assessor's Office. Prior to the issuance of a Notice of Non-Renewal, the sale of the property to a new owner does not affect the valuation formula used by the Assessor. Once a Notice of Non-Renewal is issued, the Assessor applies a capitalization rate and an escalation factor that gradually increases the Mills Act value to equal the unrestricted roll value.

## **WHO CAN CANCEL A MAA?**

*Termination* is typically handled through the issuance of a Notice of Non-Renewal (see p.3 above), however the *termination* is not immediately effective, but must run for ten years after the Notice has been served.

Only the City can elect to *cancel* an Agreement immediately. The City can elect to cancel an Agreement immediately if the owner of the property breaches the conditions of agreement. If Agreement conditions are breached by the owner, including the duty to prevent deterioration, the City can either bring legal action to enforce the Agreement or choose to immediately cancel the Agreement. If the Agreement is immediately cancelled, the owner is assessed a penalty of 12.5% of the property's market value at the time.

## **HOW MANY PROPERTIES CAN BE GIVEN A MILLS ACT AGREEMENT?**

The City Council has established a \$25,000 maximum cap on the amount of property tax loss to the City due to Mills Act Agreements. The Historic Preservation Committee has the authority to recommend Mills Act Agreements in any number in any given year up to the maximum cap established by the City Council. The total number of properties that can be under Mills Act Agreements at any given time will vary based on the actual assessed valuations of the properties and their respective stage in a Mills Act Agreement.

The City receives twenty-one (21%) of the total property taxes paid on a property. As shown in the table above, a property assessed at \$3,000,000 will result in \$30,000 in property taxes - \$6,300 going to the City of Belvedere. Under a Mills Act Agreement, the first year's property taxes are reduced to \$6,365 with \$1,337 going to the City of Belvedere. This results in a net property tax loss of \$4,963.

The Historic Preservation Committee will track the assessed value of current and pending Mills Act Agreement properties to annually analyze where the property tax loss is with respect to the established cap and what is remaining for potential use by new Agreements.

## **WHAT STANDARDS APPLY IF I WISH TO REHABILITATE OR PERFORM WORK ON MY PROPERTY AFTER IT IS PLACED UNDER A MILLS ACT AGREEMENT?**

The Secretary of the Interior's Standards for Historic Rehabilitation, as administered by the Historic Preservation Committee, are the standard for rehabilitation (see the final section of this Fact Sheet).

To aid in planning individual projects, the Historic Preservation Committee will inspect the property initially and note the important features of the property. This report will provide a standard against which compliance with the Secretary of Interior's Guidelines can be measured.

In addition, the Historic Preservation Committee or the City can, by appointment, inspect the exterior and interior as needed to assure the property is maintained and any proposed changes are compatible with the historic nature of the structure.

**WHAT HAPPENS IF I WISH TO SELL MY PROPERTY  
DURING THE TERM OF A MILLS ACT AGREEMENT?**

If a property is sold during the normal term of a MAA, prior to the issuance of a Notice of Non-Renewal, the benefits and obligations created by the Mills Act Agreement will be transferred to the new owner. When a Mills Act property is sold under the normal term of a MAA, the property is reassessed, but the Mills Act value overrules the selling price (market value), enabling new owners to enjoy the pre-existing, reduced tax rate. This can be a real selling point, especially when the property has appreciated considerably in value.

If the property is sold after issuance of a Notice of Non-Renewal, the sales price is factored into the valuation formula used by the Assessor. For more information on what the exact impacts would be to your property, you are encouraged to contact the County Assessor's Office. Prior to the issuance of a Notice of Non-Renewal, the sale of the property to a new owner does not affect the valuation formula used by the Assessor.

**WHAT HAPPENS IF I HAVE OWNED MY PROPERTY FOR MANY YEARS AND ALREADY  
HAVE A LOW ASSESSMENT? IS IT STILL WORTHWHILE  
TO ENTER INTO A MILLS ACT AGREEMENT?**

Some property owners who would receive no benefit from the Agreement may apply for the Mills Act. It can be a selling point to a potential buyer because the property would not be taxed at its full market value upon sale if the property were already under a MAA.

**WHAT HAPPENS IF MY HOUSE IS DESTROYED BY FIRE  
OR OTHER NATURAL DISASTER?**

If the designated historic property were destroyed, the property taxes on the site would revert back to the Prop 13 formula. None of the Mills Act Agreement conditions would apply.

**NOTE: IT IS ADVISED THAT PROPERTY OWNERS CONSULT WITH THEIR OWN  
LEGAL COUNSEL BEFORE ENTERING INTO A MILLS ACT AGREEMENT**

**THE SECRETARY OF THE INTERIOR'S STANDARDS  
FOR HISTORIC REHABILITATION, 1995, AS AMENDED  
(CURRENT TO 9/11/2008)**

Department of Interior Regulations  
Standards for the Treatment of Historic Properties  
Title 36: Parks, Forests, and Public Property  
Part 67—Historic Preservation Certifications Pursuant To Sec. 48(G) And Sec. 170(H) Of The Internal Revenue Code Of 1986  
§ 67.7 Standards for Rehabilitation.

(a) The following Standards for Rehabilitation are the criteria used to determine if a rehabilitation project qualifies as a certified rehabilitation. The intent of the Standards is to assist the long-term preservation of a property's significance through the preservation of historic materials and features. The Standards pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior of historic



buildings. The Standards also encompass related landscape features and the building's site and environment, as well as attached, adjacent, or related new construction. To be certified, a rehabilitation project must be determined by the Secretary to be consistent with the historic character of the structure(s) and, where applicable, the district in which it is located.

(b) The following Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility. (The application of these Standards to rehabilitation projects is to be the same as under the previous version so that a project previously acceptable would continue to be acceptable under these Standards.)

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

(c) The quality of materials and craftsmanship used in a rehabilitation project must be commensurate with the quality of materials and craftsmanship of the historic building in question. Certain treatments, if improperly applied, or certain materials by their physical properties, may cause or accelerate physical deterioration of historic buildings. Inappropriate physical treatments include, but are not limited to: improper repointing techniques; improper exterior masonry cleaning methods; or improper introduction of insulation where damage to historic fabric would result. In almost all situations, use of these materials and treatments will result in denial of certification. Similarly, exterior additions that duplicate the form, material, and detailing of the structure to the extent that they compromise the historic character of the structure will result in denial of certification. For further information on appropriate and inappropriate rehabilitation treatments, owners are to consult the Guidelines for Rehabilitating Historic Buildings published by the NPS. "Preservation Briefs" and additional technical information

to help property owners formulate plans for the rehabilitation, preservation, and continued use of historic properties consistent with the intent of the Secretary's Standards for Rehabilitation are available from the SHPOs and NPS regional offices. Owners are responsible for procuring this material as part of property planning for a certified rehabilitation.

(d) In certain limited cases, it may be necessary to dismantle and rebuild portions of a certified historic structure to stabilize and repair weakened structural members and systems. In such cases, the Secretary will consider such extreme intervention as part of a certified rehabilitation if:

- (1) The necessity for dismantling is justified in supporting documentation;
- (2) Significant architectural features and overall design are retained; and
- (3) Adequate historic materials are retained to maintain the architectural and historic integrity of the overall structure.

Section 48(g) of the Internal Revenue Code of 1986 exempts certified historic structures from meeting the physical test for retention of external walls and internal structural framework specified therein for other rehabilitated buildings. Nevertheless, owners are cautioned that the Standards for Rehabilitation require retention of distinguishing historic materials of external and internal walls as well as structural systems. In limited instances, rehabilitations involving removal of existing external walls, *i.e.*, external walls that detract from the historic character of the structure such as in the case of a nonsignificant later addition or walls that have lost their structural integrity due to deterioration, may be certified as meeting the Standards for Rehabilitation.

(e) Prior approval of a project by Federal, State, and local agencies and organizations does not ensure certification by the Secretary for Federal tax purposes. The Secretary's Standards for Rehabilitation take precedence over other regulations and codes in determining whether the rehabilitation project is consistent with the historic character of the property and, where applicable, the district in which it is located.

(f) The qualities of a property and its environment which qualify it as a certified historic structure are determined taking into account all available information, including information derived from the physical and architectural attributes of the building; such determinations are not limited to information contained in National Register or related documentation.

# Specimen

## MILLS ACT AGREEMENT

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_ by and between the City of Belvedere, a municipal corporation of the State of California (“City”) and \_\_\_\_\_ (“Owner”).

### RECITALS

- a) Owner possess and owns real property located at \_\_\_\_\_ within City and more particularly described in Exhibit A (attached) and made a part hereof (“the Property”).
- b) The Property is a qualified historic property within the meaning of Government Code Section 50280.1, in that it is a privately owned property which is not exempt from property taxation and is listed in the City of Belvedere Register of Landmarks.
- c) Both Owner and City desire to protect and preserve the Property so as to retain its characteristics of historical and architectural significance.

### AGREEMENT

NOW THEREFORE, both Owner and City, in consideration of the mutual promises, covenants and conditions contained herein and the substantial public benefit to be derived therefrom, do hereby agree as follows:

1. **AUTHORITY.** This Agreement is made pursuant to California Government Code Sections 50280-50290 and Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code and is subject to all of the provisions of those statutes.
2. **TERM.** This Agreement shall be effective commencing on \_\_\_\_\_ and shall remain in effect for a period of ten years therefrom. It is the intent of the City that subsequent automatic renewals pursuant to Paragraph 7 shall not extend the maximum allowable term of the Agreement beyond a total of fifteen years
3. **PRESERVATION OF PROPERTY.** Owner shall preserve and maintain the property and grounds as a qualified historically designated property. Any restoration or rehabilitation work undertaken on the property shall 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 Historic Rehabilitation, and the State Historic Building Code. (See Exhibit B, Secretary of Interior’s Standards for Historic Rehabilitation.)

4. **FURNISHING OF INFORMATION.** Owner shall furnish City with any information City shall require to enable City to determine the Property's present state as well as its continuing eligibility as a qualified history property.
5. **INSPECTIONS.** There shall be an initial detailed inspection of the property by the City Building Inspector and a member or members of the Preservation Committee. A written report with photos shall be made for the owner and for the record detailing conditions which need to be met for its continuing eligibility as a qualified historically designated property. The report shall be attached to the Mills Act Agreement and shall serve as the basis for future inspections. Owner agrees to permit such inspections, by appointment, of the interior and exterior of the property by the City and a member or members of the Preservation Committee, and where necessary, by the Assessor, the Department of Parks and Recreation and the State Board of Equalization to determine Owner's compliance with this Agreement.
6. **PAYMENT OF FEE.** As a condition to entering in to the Agreement, Owner shall pay City a fee of one thousand dollars (\$1,000) or as may be established from time to time by resolution of the City Council, which fee shall not and does not exceed the reasonable cost of administering the City's landmark property agreement program.
7. **AUTOMATIC RENEWAL.** On the anniversary date of this Agreement, one year shall be automatically added to the initial term of this Agreement, unless notice of nonrenewal is given as provided in this Agreement.
8. **NOTICE OF NONRENEWAL.** If in any year either Owner or City desires not to renew the Agreement, that party shall serve written notice of nonrenewal on the other party in advance of the annual renewal date of the Agreement. Unless such notice is served by Owner at least 90 days, or by City at least 60 days prior to the renewal date, one year shall automatically be added to the term of this Agreement. Upon receipt by Owner of the notice of nonrenewal from City, Owner may make a written protest to the City Council. At any time prior to the renewal date, City may withdraw its notice to Owner of nonrenewal. It is the intent of the City to issue a notice of nonrenewal pursuant to this Paragraph at the fifth year anniversary of the Agreement.
9. **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 period since the original execution, or the last renewal of the Agreement, as the case may be. Thereafter, this Agreement shall terminate.
10. **CANCELLATION.** City may cancel this Agreement if City determines that Owner has breached any of the conditions or covenants of the Agreement, or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified landmark property. City may also cancel this Agreement if it determines that Owner has failed to restore or rehabilitate the property in the manner specified in this Agreement.
11. **NOTICE OF CANCELLATION.** This Agreement may not be canceled pursuant to Paragraph 10 above until after City has given notice of, and has held, a public hearing as required by Government Code Section 50285.

12. **CANCELLATION FEE.** If City cancels this Agreement in accordance with Paragraph 10 above, Owner shall pay a cancellation fee of twelve and one-half percent (12 ½ %) of the full value of the property at the time of cancellation. The full value shall be determined by the County Assessor, without regard to any restriction on the Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the State Controller at such time and in such manner as the Controller shall prescribe and shall be deposited in the State General Fund.
13. **NOTICES.** All notices required by or provided for in this Agreement shall be given in writing and may be mailed or delivered in person. If mailed, notice by mail shall be deemed to have been given upon deposit of notice in the mail, postage prepaid, addressed as appropriate, to Owner at Owner's last known address on the City records, or to the City at 450 San Rafael Avenue, Belvedere, California 94920-2336.
14. **NO COMPENSATION.** Owner shall not receive any payment from City in consideration of the obligations imposed under this Agreement, it being recognized and agreed that 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 Property's assessed value on account of the restrictions required for the preservation of the Property.
15. **EMINENT DOMAIN PROCEEDING.** In the event that during the term of this Agreement, the Property 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 this Agreement, the Agreement shall be canceled and no fee shall be imposed pursuant to Paragraph 12 hereof. In such event, this Agreement shall be deemed null and void for all purposes of determining the value of the Property so acquired.  
  
If subsequent to the filing of an action in eminent domain, the proposed condemnation is abandoned by the condemning agency as to all or a portion of the Property subject to the Agreement, the restriction of the use of the Property included in this Agreement shall, without further agreement of the parties, be reinstated and the terms of this Agreement shall be in full force and effect.
16. **REMEDIES AND ENFORCEMENT OF AGREEMENT.** In lieu of and/or addition to any provisions to cancel this Agreement herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event that it is determined this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of the California Government Code and the California Revenue and Taxation Code, except for an unenforceability arising from the cancellation or nonrenewal of this Agreement, for any tax year during the term or any renewal of this Agreement, then this Agreement shall be null and void and without further effect and the Property subject to this Agreement shall from that time be free from any restriction whatsoever under this Agreement, without any payment or further act of the parties to the Agreement.
17. **NOTICE OF RECORDATION OF AGREEMENT.** Owner or his/her agent shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of entering into the Agreement. 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 in the County of Marin.

- 18. **SUCCESSORS AND ASSIGNS.** This Agreement is binding upon all successors in interest or title of Owner. A successor in interest or title shall have the same rights and obligations under the Agreement as Owner.
- 19. **NONWAIVER.** No acts or omissions by City, or by any agent(s) of City, shall waive any or all of the City's rights under this Agreement.
- 20. **ATTORNEY'S FEES.** In the event legal proceedings are brought by any party or parties hereto, 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 its reasonable attorney's fees in addition to court costs and other relief ordered by the court.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officer thereof on the date first set forth above.

OWNER(S) OF RECORD

CITY OF BELVEDERE

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Owner

APPROVED AS TO FORM

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