

## **HISTORIC PROPERTY PRESERVATION AGREEMENT**

THIS AGREEMENT is made and entered into this **Date**, by and between the CITY OF UPLAND, a municipal corporation (hereinafter referred to as the “City”) and **Property Owner as show on Deed** (hereinafter referred to as the “Owner”).

### **WITNESSETH:**

#### **A. Recitals.**

(i) California Government Code Sections 50280, et seq. authorize 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 a property of historical significance;

(ii) Owner possess fee title in and to that certain real property, together with associated structures and improvements thereon, generally located at **Address**, Upland, California, (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 **Resolution Date**, the Planning Commission of the City of Upland adopted its Resolution No. **XXXX** thereby declaring and designating the Historic Property as a historic landmark pursuant to the terms and provisions of the Upland Municipal Code; 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 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 **Date** , and shall remain in effect for a term of ten (10) years thereafter.

2. Renewal. After the initial ten (10) year term, each year on the anniversary thereafter of the effective date of this Agreement (hereinafter referred to as the “renewal date”), this Agreement shall extend for an additional year 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 within the timeframes set forth herein. In the event Owner does not wish to renew this Agreement, Owner shall provide City written notice at least ninety (90) days prior to the annual nonrenewal date. In the event City does not wish to renew this Agreement, City shall provide written notice to Owner not less than sixty (60) days prior to the annual renewal date. Upon receipt by Owner of a notice of nonrenewal from City, 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 restore, 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. If this Agreement is renewed after the Initial Term, any modifications of the standards adopted by the City of Upland in Exhibit B shall apply to the Historic Property.

b. Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the office of the Historic Preservation of the State Department of Parks and Recreation. Attached hereto, marked as Exhibit “C”, and incorporated herein by this reference, is a list of those conditions pertaining to the restoration or rehabilitation of the Historic Property.

c. At least every five (5) years, 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 City, as may be necessary to determine owner's compliance with the terms and provisions of this Agreement.

d. Owner shall provide written notice of this Agreement to the Office of Historic Preservation within six months of execution of this Agreement.

4. Provision of Information of Compliance. 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.

5. 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.

6. 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 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 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 hereunder.

7. 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 instrument.

Owner hereby declare 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.

8. 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 Upland  
460 North Euclid Avenue  
P.O. Box 460  
Upland, California 91785  
Attention: Development Services Director

To Owner: Owner  
Street Address  
Upland, CA 91786

9. 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 a joint venture 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 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 any contractor, subcontractor, agent, employee or other person acting on Owner's behalf which relate 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 accrue 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 effected thereby.

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

10. 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 San Bernardino.

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

12. Exhibits. The following exhibits are attached:

Exhibit "A" Legal Description.

Exhibit "B" Improvements List.

Exhibit "C" Standards of Rehabilitation.

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

CITY OF UPLAND

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Rosemary Hoerning, Interim City Manager

OWNER

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_

ALL CAPACITY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_  
(here insert name and title of the officer)

personally appeared \_\_\_\_\_  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

(SEAL)

**EXHIBIT “A”**

**LEGAL DESCRIPTION  
FOR**

**Address, Upland, CA 91786**

**Legal Description**

**APN:**



**EXHIBIT “B”**

**IMPROVEMENTS LIST  
FOR**

**Address, Upland, CA 91786**

**YEAR**

**IMPROVEMENTS**

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

# EXHIBIT “C”

## Standards of Rehabilitation

1. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations which have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes, which may have taken place in the course of time, are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship, which characterize a building, structure, or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any acquisition, protection, stabilization, preservation, rehabilitation, restoration, or reconstruction project.