

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Historic Landmarks Commission

SUBJECT: SEE BELOW

DATE: May 12, 2008

COUNCIL DISTRICT: 3

S.N.I.: None

SUBJECT: MA07-013. Mills Act Historical Property Contract for the McKee-Lundy House, located at 592 N. Seventeenth Street (City Landmark No. HL86-34)

RECOMMENDATION

The Historic Landmarks Commission recommends that the City Council adopt a resolution approving the proposed Historical Property Contract.

OUTCOME

Approval of the Historical Property Contract would allow the property owners to utilize property tax relief to maintain the property. By approving the contract, the City and the applicant become partners in the preservation of the landmark structure.

BACKGROUND

The McKee/Lundy House is a two-story Stick/Eastlake Victorian residence that was built c. 1880. The City Council designated the house as a City Landmark Structure in 1986 (HL86-34). According to the 1986 Council resolution, the house was designed and built by pioneer and prominent local builder/architect Joseph Olcott McKee. The house appears to have been built as a farmhouse for the Lundy family. McKee's daughter, Isabella "Belle" Lundy is thought to have been named after the ship that McKee commanded and sailed around Cape Horn and through the Golden Gate in May 1850.

Maria Loretto purchased the property in 2003 and submitted an application for a Historical Property (Mills Act) Contract in November 2007. A Historical Property Contract is an agreement between the City of San Jose and the owner of a designated City Landmark which allows the owner to enjoy a reduced property tax rate from the County Assessor in exchange for the preservation, and in some cases restoration and rehabilitation, of the owner's historic property.

On May 7, 2008 the Historic Landmarks Commission held a public hearing to consider the proposed Historical Property Contract. The Commission voted to recommend the City Council

HONORABLE MAYOR AND CITY COUNCIL

Subject: MA07-013, Historical Property Contract for the McKee-Lundy House

Page 2

May 12, 2008

adopt a resolution approving the Contract (6-0-1, Commissioner Stabile absent). No one from the public spoke in favor of, or in opposition to, the proposed contract.

ANALYSIS

The Historical Property Contract is an incentive for ownership of City Landmarks. It is a contract between the City of San Jose and the owner of a designated City Landmark which allows the owner to enjoy a reduced property tax rate from the County Assessor in exchange for the preservation, and in some cases restoration and rehabilitation, of the owner's historic property. The purpose of the agreement is to provide greater protection for the City Landmark property than is otherwise provided by the historic preservation regulations in the City Municipal Code. The County Assessor sets the property tax rate based on an appraisal of the market value of the land and improvements. A property under contract will receive a property tax reduction based, instead, on the property's potential rental income. As is typical for Mills Act Historical Property Contracts, the draft contract is currently being finalized and will be forwarded to the City Council under separate cover prior to the public hearing.

Required Findings of Historic Property Contracts

The Historic Landmarks Commission recommends that the City Council adopt a resolution making the following findings and approving the proposed associated Historical Property Contract, based on the text added in italics.

- A. The proposed Contract is consistent with the General Plan;

Preservation of specific structures or special areas is a part of the San Jose 2020 General Plan Urban Conservation/Preservation Major Strategy. The proposed Contract is consistent with General Plan Historic, Archeological and Cultural Resources Policies, which state that the City should utilize a variety of techniques and measures to serve as incentives toward fostering the rehabilitation of individual buildings and districts of historic significance.

- B. The proposed Contract would provide greater protection for the Landmark Property than is otherwise provided by the provisions of Municipal Code Chapter 13.48;

The proposed Contract provides greater protection for the Landmark Property than is otherwise provided by the provisions of Municipal Code because the owner, in partnership with the City, may use property tax relief to rehabilitate and maintain the property in accordance with the preservation plan, Exhibit "C."

- C. The proposed Contract complies with the required provisions of Historical Property Contracts listed above.

The proposed Contract incorporates the Municipal Code's required provisions for Historical Property Contracts.

HONORABLE MAYOR AND CITY COUNCIL

Subject: MA07-013, Historical Property Contract for the McKee-Lundy House

Page 3

May 12, 2008

EVALUATION AND FOLLOW-UP

Not applicable.

POLICY ALTERNATIVES

The City Council could opt to decline to approve the proposed Historical Property Contract, in which case the property would remain at its current assessment level.

Pros: The City general fund's share of the property tax payments associated with this single-family house would continue to accrue at the property's full assessed value. Under this alternative, the incremental amount of annual property tax revenue that would remain in effect for the house is not precisely known, but is estimated to be approximately \$500 per year (see Cost Implications section, below).

Cons: Tax savings would not be made available for the property owner to carry out the preservation work being proposed in the Historical Property Contract. This alternative would not promote the General Plan Historic, Archeological and Cultural Resources Policies outlining the City's desire to utilize a variety of techniques and measures to serve as incentives toward fostering the rehabilitation of significant historic buildings.

Reason for not recommending: Preservation of this significant residence offers tangible public benefits (e.g., preservation of unique neighborhood and community character, enhancement of the streetscape) that justify the small incremental reduction in tax revenues associated with the house.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff has followed Council Policy 6-30: Public Outreach Policy. The proposed contract was initiated by the property owner. Public hearing notices for the project were published in a local newspaper, posted at the site, and mailed to all property owners and tenants within at least 300 feet of the subject site. Information about the proposed project and the associated public hearings has been made available through the

HONORABLE MAYOR AND CITY COUNCIL

Subject: MA07-013, Historical Property Contract for the McKee-Lundy House

Page 4

May 12, 2008

Planning Division web site. The Historic Landmarks Commission held a public hearing on the proposed Historical Property Contract on May 7, 2008 as noted above.

COORDINATION

City Council resolutions regarding the proposed Historical Property Contract have been coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This project is consistent with City Council Policy: Preservation of Historic Landmarks, and the Historic, Archaeological, and Cultural Resources San Jose 2020 General Plan policies.

COST SUMMARY/IMPLICATIONS

Under a Historical Property Contract, a property receives a lower tax bill based on the property's potential rental income rather than its full market value. The amount of tax savings varies from property to property and year to year, depending on circumstances such as the size of the building and current rental rates. Because of Proposition 13, the percent difference between a new "income-based" assessment and a property's current assessment level is also affected by how long a given property owner has owned a building. The average per-house property tax reduction experienced by other cities in California reportedly ranges from approximately 200 to 400 dollars per year (the assessment formula is the same statewide). The property tax reduction in San Jose may be somewhat higher because of higher average property values.

In San Jose, the Historical Property Contract is an incentive that is available only to individually designated City Landmark Structures. There are approximately 150 City Landmark Structures in San Jose, out of a total of approximately 307,000 housing units. Currently there are approximately 25 existing approved Historical Property Contracts in the city.

BUDGET REFERENCE

Not applicable.

CEQA

Exempt. MA07-013

for *Altoni Smidgen*
JOSEPH HORWEDEL, SECRETARY
Historic Landmarks Commission

For questions, please contact Sally Zarnowitz, Historic Preservation Officer, at 535-7834.

STAFF REPORT (592 N. Seventeenth Street)
HISTORIC LANDMARKS COMMISSION

File no.	MA07-013
Address	592 N. Seventeenth St.
Name of resource	McKee-Lundy House
Type of structure	Stick/Eastlake Victorian residence
Year constructed	1880
Owner/applicant	Maria Loretto

PROJECT DESCRIPTION

2) MA07-013: Historical Property Mills Act Contract to allow partial property tax relief to rehabilitate and maintain the McKee-Lundy House located at 592 N. Seventeenth St., City Landmark HL86-34.

BACKGROUND

The McKee/Lundy House is a two-story Stick/Eastlake Victorian residence that was built c. 1880. The City Council designated the house as a City Landmark Structure in 1986 (HL86-34). According to the 1986 Council resolution, the house was designed and built by pioneer and prominent local builder/architect Joseph Olcott McKee. The house appears to have been built as a farmhouse for the Lundy family.

McKee's daughter, Isabella "Belle" Lundy is thought to have been named after the ship that McKee commanded and sailed around Cape Horn and through the Golden Gate in May 1850.

Maria Loretto purchased the property in 2003 and submitted an application for a Historical Property (Mills Act) Contract in November 2007. A Historical Property Contract is an agreement between the City of San Jose and the owner of a designated City Landmark which allows the owner to enjoy a reduced property tax rate from the County Assessor in exchange for the preservation, and in some cases restoration and rehabilitation, of the owner's historic property.

ANALYSIS**Mills Act Historical Property Contract criteria:**

The Preservation Plan (Exhibit "C") for the proposed contract is attached to this report. The remainder of the contract will include the language, required contents, and formatting of the City of San Jose's standard template for historical property contracts. A sample copy of a recently approved contract is attached to this report for reference. The currently proposed contract will include the standard, necessary provisions of a Historical Property Contract and will satisfy the required findings as identified in the Historic Preservation ordinance with regard to historical property contracts.

The Historical Property Contract is an incentive for ownership of City Landmark Structures. It is a contract between the City of San Jose and the owner of a designated City Landmark Structure which allows the owner to enjoy a reduced property tax rate from the County Assessor in exchange for the preservation, and in some cases restoration and rehabilitation, of the owner's historic property. The purpose of the agreement is to provide greater protection for the City Landmark property than is otherwise provided by the historic preservation regulations in the City Municipal Code. The County Assessor sets the property tax rate based on an appraisal of the market value of the land and improvements. A property under contract will receive a property tax reduction based on an appraisal of the rental value of the land and improvements.

Required Provisions of Historical Property Contracts

Municipal Code Chapter 13.48 requires provisions of Historical Property Contracts as follows:

- A. A description of the Landmark Property subject to the Contract;
- B. A provision that the term of the Contract is a minimum period of ten years;
- C. Specific conditions requiring preservation of the Landmark Property and, where appropriate,

- restoration and rehabilitation of the Landmark Property to conform to the requirements of the City, and the rules and regulations of the Office of Historic Preservation of the State of California Department of Parks and Recreation;
- D. Provision for the periodic examination of the interior and exterior of the Landmark Property by the City of San Jose, Santa Clara County Assessor, and the State Board of Equalization as may be necessary to determine the owner's compliance with the Contract.
 - E. A requirement that the property owner annually expend an amount equal to a minimum of 10% of the tax savings attributed to the Contract to the preservation and maintenance of the Landmark Property; and
 - F. A provision that the Contract is binding upon, and shall inure to the benefit of, all successors in interest of the owners; and that a successor in interest shall have the same rights and obligations under the Contract as the original owners who entered into the Contract.

In addition to the Municipal Code provisions above, State legislation requires the City Clerk to record a Historical Property Contract with the County Recorder by December 31st of any calendar year in order to be effective during the following calendar year.

The Historical Property Contract is a standardized form document, the majority of which is the same for each individual property. The substantive content of the contract, consisting of proposed repairs, upgrades, and maintenance is referred to as the Preservation Plan (Exhibit "C" of the contract). The Preservation Plan is similar in form for each contract, but its contents differ from property to property, based on the specific needs of each individual historical building and situation.

The Preservation Plan (Exhibit "C") includes an itemized list of proposed upgrades, maintenance, and repairs for the first ten years of the Historical Property Contract. It identifies specific anticipated work that is planned to be performed under the contract. The Preservation Plan is an outline of anticipated work—representing an annual minimum expenditure of 10% of the annual tax savings afforded by the Historical Property Contract—that will be done to preserve and enhance the historic resource. Other preservation work that represents a similar expenditure may be substituted as different site-specific needs arise over time. All work being done to meet the requirements of the Contract remains subject to approval of any applicable permits, including Historic Preservation Permits (or Permit Amendment/Adjustments) and/or building permits. Any work being reviewed under a Historic Preservation Permit/Amendment/Adjustment undergoes design review to ensure compatibility with the *Your Old House: Guide for Preserving San Jose Homes*.

Required Findings of Historic Property Contracts

In accordance with Municipal Code Chapter 13.48, the City Council may approve a Historic Property Contract only if the following findings are made. Planning staff recommends that the Historic Landmarks Commission recommend the City Council make the following findings and approve the proposed Historical Property Contracts, based on the text added beneath each required finding, below.

- A. *The proposed Contract is consistent with the General Plan;*
Preservation of specific structures or special areas is a part of the San Jose 2020 General Plan Urban Conservation/Preservation Major Strategy. The proposed Contract is consistent with General Plan Historic, Archeological and Cultural Resources Policies, which state that the City should utilize a variety of techniques and measures to serve as incentives toward fostering the rehabilitation of individual buildings and districts of historic significance.
- B. *The proposed Contract would provide greater protection for the Landmark Property than is otherwise provided by the provisions of Municipal Code Chapter 13.48;*
The proposed Contract provides greater protection for the Landmark Property than is otherwise provided by the provisions of Municipal Code because the owner, in partnership with the City, may

use property tax relief to rehabilitate and maintain the property in accordance with the preservation plan, Exhibit "C".

- C. *The proposed Contract complies with the required provisions of Historical Property Contracts listed above.*

The proposed Contracts incorporate the required Municipal Code provisions for Historical Property Contracts, listed as items A-F on the previous page of this report.

CEQA

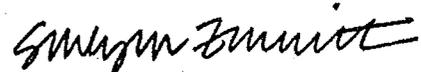
Under the provisions of Section 15307 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the project is found to be exempt from environmental review, in that the project is limited to an action taken by a regulatory agency, as authorized by state law or local ordinance, to assure the maintenance, restoration, or enhancement of a resource where the regulatory process involves procedures for protection of the environment.

COMMUNITY OUTREACH

A public hearing notice for the project was published in a local newspaper, posted at the site, and mailed to all property owners and tenants within at least 300 feet of the subject site. Information about the proposed projects and the associated public hearings has been made available through the Planning Division's web site.

RECOMMENDATION

Planning Staff recommends that the Commission, after holding a public hearing on the subject proposal, recommend that the City Council approve the proposed Mills Act Historical Property Contract at the City Council hearing scheduled for Tuesday, June 3, 2008 at 1:30 PM.



Sally Notthoff Zarnowitz, AIA
Historic Preservation Officer

Attachments:

Photo

Location map

Preservation plan ("Exhibit C" of the contract)

Sample contract

1986 City Council resolution





11/21/2007

Scale: 1"= 200'
Noticing Radius: 300 feet

File No: MA07-013

District: 3

Quad No: 67

**Historical Property Contract, File No. MA07-013
Preservation Plan (Exhibit "C")**

592 N. Seventeenth Street, McKee-Lundy House

OWNER shall annually expend the amount equal to a minimum of 10% of the annual tax savings attributed to this Agreement for the preservation and maintenance of the Historic Landmark. The rehabilitation of the Historic Landmark shall be completed on or before the 10th anniversary of the Effective Date of this Agreement. Such rehabilitation shall include all of the following tasks:

Scope of Work

- Repair rear porch
- Refinish hardwood floors
- Repair/upgrade 2nd floor bathroom
- Repair/replace interior moldings and ceiling light fixtures
- Repair existing wood doors and/or windows, including hardware, as needed
- Repaint exterior
- Re-roof
- Repair existing wood side-porch railings
- Extend front/side fencing match existing picket fence

After the 10th Anniversary date of the Effective Date of this Agreement, Owner shall expend an amount to a minimum of 10% of the tax savings attributed to this Agreement for the continued preservation and maintenance of the historic Landmark and more specifically shall perform and complete but without limitation the following tasks each year:

Maintenance
Painting
Repairs

HISTORIC LANDMARK PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2007, by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter referred to as the "CITY") and _____ (hereinafter referred to as the "OWNER").

RECITALS

WHEREAS, California Government Code Section 50280, et seq. and Chapter 13.48 of the San Jose Municipal Code authorize CITY 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

sample

WHEREAS, OWNER possesses fee title in and to that certain real property, together with associated structures and improvements thereon, commonly known as the _____ House (City Landmark Number HL## ###), located at _____ Street (hereinafter such property shall be referred to as the "Historic Landmark"). A legal description of the Historic Landmark is attached hereto as Exhibit "A" and incorporated herein by this reference; and

WHEREAS, on June 1, 2004 the City Council of the City of San Jose adopted its Resolution Number 72122 thereby declaring and designating the Historic Landmark as a historic landmark pursuant to the terms and provisions of Chapter 13.48 of the San Jose Municipal Code; and

WHEREAS, CITY and OWNER for the mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristic of historical significance of the Historic Landmark and to qualify the Historic Landmark 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 _____, 2007 (the "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 Section 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. Upon receipt by OWNER of a notice of nonrenewal from CITY, OWNER may make a written protest of the non-renewal. 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 and the property shall remain enforceably restricted for the balance of the term then remaining, either from its original execution or from the past renewal of the Agreement, whichever may apply. The Director of Planning, Building and Code Enforcement shall record the Notice of Nonrenewal and file a copy with the Assessor of Santa Clara County. Nonrenewal shall not be deemed a cancellation pursuant to Section 6 of this Agreement.

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

a. OWNER shall preserve and maintain the characteristic of historical significance of the Historic Landmark in no less than equal to the condition of the property as of June 7, 2006, the date on which OWNER acquired the property. OWNER shall document the existing condition of the Historic Landmark by providing to CITY on the Effective Date a minimum of four (4) current and clear photographs of each elevation of the Historic Landmark structure, of any character-defining or historically significant features of the Historic Landmark structure or property, and of any areas of the Historic Landmark for which improvements are planned or intended by OWNER. Attached hereto 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 Landmark, which shall apply to such property and with which OWNER shall comply throughout the term of this Agreement.

b. OWNER shall, where necessary or required, restore and rehabilitate the property in full accordance with the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation and with the requirements of Chapter 13.48 of the San Jose Municipal Code, including any permits or approvals granted pursuant to that Chapter. Without limiting the forgoing, OWNER shall perform all of the restoration and rehabilitation activities of the Historic Landmark set forth on Exhibit "C," attached hereto and incorporated herein by this reference, within any timelines that may be set forth in Exhibit C.

c. OWNER shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Landmark 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 annually expend an amount equal to a minimum of 10% of the tax savings attributed to this Agreement for the preservation and maintenance of the Historic Landmark.

4. **Force Majeure.** OWNER shall not be held responsible for repair or replacement of the Historic Landmark if damaged or destroyed through "Acts of God," such as flood, tornado, lightning, earthquake or fire or other cause resulting therefrom; CITY shall, however, have the right to cancel this Agreement pursuant to terms of Section 6, Cancellation.

5. **Provisions of Information of Compliance.** OWNER hereby agrees to furnish CITY with any and all information requested by CITY that may be necessary or advisable to determine compliance with the terms and provisions of this Agreement. OWNER shall retain, store and preserve during the term of this Agreement all records that are related to or that evidence the eligibility of the Historic Landmark or OWNER's compliance with the terms and provisions of this Agreement.

6. **Cancellation.** CITY, following a duly noticed public hearing, 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 landmark. CITY also may cancel this Agreement if it determines that OWNER has failed to restore or rehabilitate the property or Historic Landmark in the manner specified in Subsection 3(b) of this Agreement. In the event of cancellation pursuant to this Section 6, OWNER may be subject to payment of those cancellation fees set forth in the California Government Code. Prior to any procedures set forth in this Section, CITY shall give notice of breach to OWNER and OWNER shall have one hundred and twenty (120) days to cure such breach to the reasonable satisfaction of CITY.

7. **Binding Effect of Agreement.** This Agreement shall be binding upon, and inure to the benefit of, all successors in interest of OWNER. A successor in interest shall have the same rights and obligations under this Agreement as 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.

CITY: City Clerk
City of San José
200 East Santa Clara Street
San José, CA 95113

OWNER:

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 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 from damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct use or operations of OWNER or those of OWNER's contractor, subcontractor, agent, employee or other person acting on OWNER's behalf which relate to the use, operation and maintenance of the Historic Landmark. 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 Landmark. 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 Landmark.

c. 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.

"CITY"

CITY OF SAN JOSE, a municipal corporation

APPROVED AS TO FORM:

RENÉE A. GURZA
Senior Deputy City Attorney

By LEE PRICE, CMC
City Clerk

"OWNER"

sample

EXHIBIT "A"

LEGAL DESCRIPTION
FOR

____ Street
(See attached)

sample

EXHIBIT "B"

OWNER shall, where necessary, restore and rehabilitate the Historic Landmark and shall do so only in full accordance and compliance with the rules and regulations of the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings, as the same may be amended from time to time.

A summary of the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (the "Standards") is provided below for convenient reference. OWNER shall comply with the Standards in effect when OWNER commences any rehabilitation or restoration work on the Historic Landmark.

The Standards (Department of the Interior Regulations, 36 CFR 67) pertain to historic buildings of all materials, construction, types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

- 1) A property shall be used for its historic purposes, 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 element 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 archaeological 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.

sample

EXHIBIT "C"

Owner shall annually expend an amount equal to a minimum of 10% of the tax savings attributed to this Agreement for the preservation and maintenance of the Historic Landmark in accordance with the terms and conditions set forth in this Agreement. The rehabilitation of the Historic Landmark shall be completed on or before the 10th anniversary of the Effective Date of this Agreement, and such rehabilitation shall include:

<u>Year</u>	<u>Description</u>
One	2008
Two	2009
Three	2010
Four	2011
Five	2012
Six	2013
Seven	2014
Eight	2015
Nine	2016
Ten	2017

sample

After the 10th anniversary of the effective date of this agreement, Owner shall expend an amount equal to a minimum of 10% of the tax savings attributed to this agreement for the continued preservation and maintenance of the Historic Landmark and more specifically shall perform and complete but without limitation the following tasks each year:

- Maintenance
- Painting
- Repairs

5/19/86

NOW, THEREFORE,

SECTION 1. In accordance with the provisions of Chapter 13.48 of Title 13 of the San Jose Municipal Code, this Council does hereby designate the hereinafter described McKee/Lundy House as a landmark of special historical, architectural, cultural, aesthetic or engineering interest or value of an historic nature:

SECTION 2. Said designation is based upon the following findings:

1. The residence is an excellent stick/eastlake style structure built in 1880 as a farmhouse for the Lundy family.
2. Joseph Olcott McKee, builder/architect of the McKee/Lundy house, was a local pioneer and "one of the leading men in his profession in Santa Clara County". The house was built for his daughter, Isabella "Belle" Lundy who was named after the ship he commanded and sailed around Cape Horn that sailed thru the Golden Gate in May of 1850.
3. Mc. McKee was one of Santa Clara County's pioneers and "Pen Pictures from the Garden of the World" documents his prominence as a local architect.