

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Historic Landmarks Commission

SUBJECT: SEE BELOW

DATE: March 16, 2009

COUNCIL DISTRICT: 3
SNI: 13th Street

SUBJECT: HL08-179 & MA08-011, Historic Landmark Nomination and Mills Act Historical Property Contract for the Reverend G. A. Miller Residence, located at 80 S. Sixth Street;

RECOMMENDATION

The Historic Landmarks Commission (HLC) recommends (5-0-1; Jackson absent) that the City Council adopt resolutions designating the Reverend G. A. Miller Residence as a Historic Landmark No. 179 and approving associated Historical Property Contract File No. MA08-010.

OUTCOME

Designation of the building as a Historic Landmark structure would establish the requirement for the issuance of Historic Preservation (HP) permits to approve any exterior changes proposed to the structure. Approval of the Historical Property Contract would allow the property owner 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 property.

BACKGROUND

The property owner, Marvin K. Williams, submitted an application for Historic Landmark designation of the house in November 2008, using historical evaluations performed by qualified historical consultants Architectural Resource Group. The City Council approved initiation of the City Landmark designation process for the Reverend G. A. Miller Residence at its February 24, 2009 public hearing.

On March 4, 2009, the Historic Landmarks Commission held a public hearing to consider the proposed Historic Landmark designation and associated Historical Property Contract. The Commission voted (5-0-1; Jackson absent) to recommend the City Council adopt a resolution designating the Reverend G. A. Miller Residence as a Historic Landmark No. 179. The

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Commission voted (5-0-1; Jackson absent) to recommend the City Council approve the associated Historical Property Contract (File Number MA08-011) and make the following findings:

- The proposed contract is consistent with the San José 2020 General Plan;
- The proposed contract would provide greater protection for the landmark property than is otherwise provided by the provisions of Chapter 13.48 of the municipal code; and
- The proposed contract complies with the requirements of Section 13.48.520 of the San José Municipal Code.

The Historic Landmarks Commission recommended approval of the proposed Preservation Plan associated with the historic property contract.

ANALYSIS

I. Historic Landmark Nominations

Based on the information in the historical evaluation prepared by Architectural Resource Group for the property, as discussed below, the building merits designation as a historic landmark based on its historical, cultural and architectural significance. The building qualifies for City Landmark status primarily based on Criteria (6) of the Historic Preservation Ordinance (Municipal Code Section 13.48.110) as noted above. Please refer to the attached evaluation form for a more detailed discussion and analysis of the building.

The two-and-a-half story Reverend G. A. Miller house embodies a particular well developed example of Queen Anne style architecture due to features such as its asymmetrical fenestration, varied wall materials and a large front porch. Victorian styles, such as Queen Anne were popular in the United States from about 1860 to 1900 during the Industrial Revolution.

The building appears to be eligible for the National Register of Historic Places (NR) and the California Register of Historical Resources (CR) for its association with important events and personages and for its distinctive architecture. The Reverend G. A. Miller Residence appears eligible under NR Criterion C and CR Criterion 3, as a representative of a high point in local Queen Anne -style residential architecture from the period of San José's *Horticultural Expansion*. The property meets the criteria for designation as a City Landmark Structure in conformance with San José's Historic Preservation Ordinance (Chapter 13.48 of the Municipal Code) based on its distinctive architecture.

Consistent with the National Register of Historic Places eligibility findings, the building appears to qualify for City Landmark status based on: *Criterion (6) as an embodiment of distinguishing characteristics of an architectural type or specimen*, as a representative of a high point in local Queen Anne -style residential architecture from the period of San José's *Horticultural Expansion*.

II. Mills Act Historical Property Contracts

The Historic Landmark Preservation Agreement is an incentive for ownership of City Landmarks. It is a contract between the City of San José 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 on an appraisal of the rental value of the land and improvements.

The draft contract is attached. As is typical for Mills Act historical property contracts, the contract is currently being finalized by the City Attorney's Office and the property owner and will be forwarded to the City Council under separate cover prior to the public hearing.

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 José, 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.

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 Contracts, 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 José 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 plans, Exhibit "C".

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

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

POLICY ALTERNATIVES

The City Council could opt to decline to designate the building as a City Landmark Structure. In such case, the structure could undergo exterior alterations in the future without need of a Historic Preservation Permit. The City Council could also opt to decline to approve the associated Mills Act historical property contract, in which case the property would remain at their current assessment level; tax savings would not be available for the property owner to carry out the preservation work being proposed in the historical property contract.

Pros: This alternative would not appear to confer any benefits, from a public policy perspective.

Cons: A decision not to designate the building in accordance with its eligibility as a City Landmark Structure would not further the objectives of the General Plan policies and the Historic Preservation Ordinance to promote and enhance the preservation of historically and architecturally significant sites and structures (see Fiscal/Policy Alignment section, below).

Reason for not recommending: On the basis of the evaluation prepared by qualified historical consultants, the house has been determined to meet the eligibility requirements for designation as a City Landmark Structure. To follow through with formal designation process as proposed would promote the General Plan and Municipal Code objectives relative to historic preservation.

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 Landmark nomination and 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 500 feet of the subject site. Information about the proposed projects and the associated public hearings has been made available through the Planning Division web site, and staff has been available to answer questions.

The Historic Landmarks Commission held a public hearing on the proposed Historic Landmark Designation and Historical Property Contract March 4, 2009 as noted above.

COORDINATION

City Council resolutions to designate the Landmarks and the associated Historical Property Contracts 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 José 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

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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 José may be somewhat higher because of higher average property values.

In San José, 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 José, out of a total of approximately 307,000 housing units. Currently there are approximately 27 existing approved Historical Property Contracts in the city.

BUDGET REFERENCE

Not applicable.

CEQA

The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that the project has been determined exempt from the provisions of the California Environmental Quality Act (CEQA) per Section 15331. The project is limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties

for *Atan: smich*
JOSEPH HORWEDEL, SECRETARY
Historic Landmarks Commission

For questions, please contact Project Manager Lori Moniz at 535-7841.

Primary # _____
 HRI # _____
 Trinomial _____
 NRHP Status Code 3S

Other Listings
 Review Code _____ Reviewer _____ Date _____

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Resource Name or #: (Assigned by recorder) 80 6th Street, South

P1. Other Identifier:

P2. Location: Not for Publication Unrestricted a. County Santa Clara
 and (P2b and P2c or P2d. Attach a Location Map as necessary.)
 b. USGS 7.5' Quad San Jose East Date 1978 T ; R ; 1/4 of 1/4 of Sec ; B.M.
 c. Address: 80 6th Street, South City San Jose Zip 95112
 d. UTM: (Give more than one for large and/linear resources) ; mE/ mN
 e. Other Locational Data (Enter Parcel #, legal description, directions to resource, elevation, etc., as appropriate)

Parcel No. 46724032

P3. Description (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

The 4,008 square foot residence at 80 South 6th Street has an irregular-shaped footprint. The roof of the two-and-a-half story building is gabled, and the walls of the wood-frame structure are clad in narrow bevel siding. The closed pediment of the gable end is ornamented with square-butt shingles and fishscale shingles arranged in a diamond pattern. A plain entablature, dentil courses, and modillions ornament the eaves. The front (west) facade of the building is asymmetrical. A full-width porch extends across first floor. Pairs of Doric columns support a plain entablature and the porch roof. The columns rest on siding-covered posts, and turned balustrades span the gap between. A closed pediment, situated off center, is located on the porch roof.

The pediment is ornamented with dentil courses and a carved shield and foliage. The eaves of the porch and gable end also feature dentil courses. Stepped cheek walls line the wood stairway, which leads to the porch. See continuation sheet.

P3b. Resource Attributes: (List attributes and codes) HP2 - Single Family Property

Resources Present Building Structure Object Site District Element of District Other (isolates, etc.)

P5a. Photograph or Drawing (Photograph required for buildings, structures, and objects)



P5b. Description of Photo: (View, date, accession #)
View looking east

P6. Date Constructed/Age and Sources:
 Prehistoric Historic Both
1900 Metroscan

P7. Owner and Address
Bruce Moyer & Jun Z Cui
80 S 6th St.
San Jose, CA 95112-3529

P8. Recorded by: (Name, affiliation, and address)
Jody Stock / Bridget Maley
Architectural Resources Group
Pier 9, The Embarcadero
San Francisco, CA 94111

P9. Date Recorded: 07/15/2002

P10. Survey Type: (Describe)
Intensive Level Survey

P11. Report Citation: (Cite survey report and other sources, or enter "none")
of San Jose, East Downtown Frame Survey, Phase II

Comments NONE Continuation Sheet District Record Rock Art Record Other: (List)
 Location Map Building, Structure, and Object Record Linear Feature Record Artifact Record
 Sketch Map Archaeological Record Milling Station Record Photograph Record

BUILDING, STRUCTURE, AND OBJECT RECORD

Primary # _____

HRI # _____

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NRHP Status Code

3S

Resource Name or #: (Assigned by recorder)

80 6th Street, South

B1. Historic Name: same

B2. Common Name: none

B3. Original Use: single-family residence

B4. Present Use: single-family residence

B5. Architectural Style: Queen Anne

B6. Construction History: (Construction date, alterations, and date of alterations)

The house was built circa 1900.

B7. Moved? No Yes Unknown Date:

Original Location:

B8. Related Features:

B9a. Architect: unknown

b. Builder: unknown

B10. Significance: Theme: Residential Architecture

Area: San Jose

Period of Significance: 1880-1930

Property Type: residential

Applicable Criteria: C

(Discuss importance in terms of historical or architectural context as defined by theme, period and geographic scope. Also address integrity.)

The City of San José prospered from the 1870s through the 1890s, and the commercial core of the City spilled over from 1st to 2nd Street. The increased development of downtown and an expanding population made the surrounding streets prime locations for residential development. In these and the subsequent three decades, numerous new houses were built in downtown neighborhoods like the one surrounding Washington Square. The blocks bounded by South 4th, South 11th, East Santa Clara, and the present-day Interstate-280, were platted for primarily residential development. Victorian Era Queen Anne Style houses and later Craftsman bungalows filled out these lots by the end of the 1920s. The majority of properties surrounding Washington Square (now San José State University) are residential and include mostly single-family dwellings with some duplexes and apartment buildings. Most of the historic residential buildings within the neighborhood are of wood-frame construction. During the 1960s and 70s, with the expansion of San José State University, the demolition of a number of older single-family residential properties occurred, and multi-family housing was constructed in their place. This house reflects the context of early residential development in this area of San José from the 1880s to the 1930s.

According to MetroScan data, the house at 80 South 6th Street was constructed circa 1900. The first tenants listed city directories were the Reverend G.A. Miller and his wife, Margaret R. in 1913. Reverend Miller was a pastor for the First Methodist Church. By 1919 Julia T. Lofthus lived in the house. In 1924 Emily Perry and Leonard A. Inwood were residents, and in 1931 Ollie B. Inwood owned the property, and Hazel Perry was a tenant. From 1942 through 1964, the house was owned and lived in by Ralph Spangler. By 1972 Martha Poling, a student, was a tenant. As late as 1999, Bruce Moyer and June Z. Cui owned the property. See continuation sheet.

B11. Additional Resource Attributes: (List attributes and codes)

HP2 - Single Family Property

B12. References:

See continuation sheet.

B13. Remarks:

B14. Evaluator: Architectural Resources Group

Date of Evaluation: 07/15/2002

(This space reserved for official comments.)

(Sketch Map with north arrow required.)



Page 3 of 3 Resource Name or #: (Assigned by recorder) 80 6th Street, South
Recorded by: Jody Stock / Bridget Maley Date 07/15/2002 Continuation Update

P3. Description continued:

Several windows and a door line are located in the wall behind the porch.

At the north end of the second floor, there is an ocular window. South of this, a three-sided flat-roofed bay steps out from the wall. In the center of the bay there is a single-hung window with a diamond-paned transom. On the angled sides of the bay there are single-hung windows. Back on the main block of the building, there is a single window. In the gable end, an arched door with a double-hung window on either side creates a Palladian opening. The door has diamond-paned glazing with an ornamental voussoir at the top of the frame. The windows are four-over-four divided lights. All of the windows on this façade appear to have wood frames and sashes.

The residence has characteristics typical of the Queen Anne style such as: asymmetrical facade, projecting bay, diamond-paned windows, varied wall materials, and a profusion of carved wood ornament.

B10. Significance continued:

The house retains a high degree of integrity; the location, design, materials, workmanship, feeling, and association appear to remain unchanged. In addition, because most of the houses surrounding the property are historic, the setting of the residence is intact. The current footprint of the building matches that shown on the 1915 Sanborn Map.

The house at 80 South 6th Street appears to be individually eligible under National Register of Historic Places Criterion C (and similarly California Register Criterion 3) at the local level: as a particularly well-developed example of Queen Anne style residence. The house's features such as: asymmetrical fenestration, varied wall materials, profusion of carved trim and molding, bay window, and large front porch embody Queen Anne design. The building is one of the finest examples of this style within the survey area. Victorian styles, such as Queen Anne were popular in the United States from about 1860 to 1900 during the Industrial Revolution. The house at 80 South 6th Street appears to meet the criteria for a Candidate City Landmark under the City of San Jose Historic Preservation Ordinance. Under the Historic Preservation Ordinance it has distinguishing characteristics of an architectural type or specimen, in this case a Queen Anne style residence. When evaluating the building using the San Jose Tally Sheet, it scored 71 points.

B12. Reference continued:

Book of Designs: Prepared from Designs Originated by Wolfe & McKenzie Architects. San Jose, California: published by Wolfe & McKenzie Architects, 1907.

McAlester, Virginia and Lee. *A Field Guide to American Houses.* New York: Alfred A. Knopf, 2000.

National Register Bulletin 16A. U.S. Department of the Interior, National Park Service, Interagency Resources Division, National Register Branch, 1991.

Polk City Directories for the City of San Jose, 1887-88, 1896-97, 1901, 1907, 1913-14, 1919, 1924, 1930, 1935, 1939, 1943, 1949-50, 1955, 1960, 1964, and 1973.

Property Information Sheets. Office of County Assessor, Santa Clara County, California, 1999-2000.

"Sanborn Company Fire Insurance Maps," 1884, 1891, 1915 and 1950.

Extra copy

HISTORIC EVALUATION SHEET

Historic Resource Name: 80 6th Street South

Note: Complete all blanks. Use spaces to justify ratings. For example, a rating of "E" on No. 9, Age, would be justified by "Built in 1850."

A. VISUAL QUALITY/DESIGN

1. EXTERIOR	_____	E	VG	G	FP	<u>E</u>
2. STYLE	_____	E	VG	G	FP	<u>E</u>
3. DESIGNER	appears to be Wolfe & McKenzie	E	VG	G	FP	<u>VG</u>
4. CONSTRUCTION	_____	E	VG	G	FP	<u>FP</u>
5. SUPPORTIVE ELEMENTS	_____	E	VG	G	FP	<u>G</u>

B. HISTORY/ASSOCIATION

6. PERSON/ORGANIZATION	_____	E	VG	G	FP	<u>FP</u>
7. EVENT	_____	E	VG	G	FP	<u>FP</u>
8. PATTERNS	_____	E	VG	G	FP	<u>VG</u>
9. AGE	_____	E	VG	G	FP	<u>VG</u>

C. ENVIRONMENTAL/CONTEXT

10. CONTINUITY	_____	E	VG	G	FP	<u>VG</u>
11. SETTING	_____	E	VG	G	FP	<u>VG</u>
12. FAMILIARITY	_____	E	VG	G	FP	<u>VG</u>

D. INTEGRITY

13. CONDITION	_____	E	VG	G	FP	<u>E</u>
14. EXTERIOR ALTERATIONS	_____	E	VG	G	FP	<u>E</u>
15. STRUCTURAL REMOVALS	_____	E	VG	G	FP	<u>E</u>
16. SITE	_____	E	VG	G	FP	<u>E</u>

E. REVERSIBILITY

17. EXTERIOR	_____	E	VG	G	FP	_____
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F. ADDITIONAL CONSIDERATIONS/BONUS POINTS

18. INTERIOR/VISUAL QUALITY	_____	E	VG	G	FP	<u>N/A</u>
19. HISTORY/ASSOCIATION OF INTERIOR	_____	E	VG	G	FP	<u>N/A</u>
20. INTERIOR ALTERATIONS	_____	E	VG	G	FP	<u>N/A</u>
21. REVERSIBILITY/INTERIOR	_____	E	VG	G	FP	<u>N/A</u>
22. NATIONAL OR CALIFORNIA REGISTER	_____	E	VG	G	FP	<u>N/A</u>

EVALUATION TALLY SHEET (Part I)

Historic Resource Name: 80 6th Street South

	VALUE				
	<u>E</u>	<u>VG</u>	<u>G</u>	<u>FP</u>	
A. <u>VISUAL QUALITY/DESIGN</u>					
1. EXTERIOR	16	12	6	0	<u>16</u>
2. STYLE	10	8	4	0	<u>10</u>
3. DESIGNER	6	4	2	0	<u>4</u>
4. CONSTRUCTION	10	8	4	0	<u>8</u>
5. SUPPORTIVE ELEMENTS	8	6	3	0	<u>0</u>
					<u>SUBTOTAL:</u> 38
B. <u>HISTORY/ASSOCIATION</u>					
	<u>E</u>	<u>VG</u>	<u>G</u>	<u>FP</u>	
6. PERSON/ORGANIZATION	20	15	7	0	<u>0</u>
7. EVENT	20	15	7	0	<u>0</u>
8. PATTERNS	12	9	5	0	<u>9</u>
9. AGE	8	6	3	0	<u>6</u>
					<u>SUBTOTAL:</u> 15
C. <u>ENVIRONMENTAL/CONTEXT</u>					
	<u>E</u>	<u>VG</u>	<u>G</u>	<u>FP</u>	
10. CONTINUITY	8	6	3	0	<u>6</u>
11. SETTING	6	4	2	0	<u>4</u>
12. FAMILIARITY	10	8	4	0	<u>8</u>
					<u>SUBTOTAL:</u> 18
					<u>"A" & "C" SUBTOTAL:</u> 56
					<u>"B" SUBTOTAL:</u> 15
					<u>PRELIMINARY TOTAL:</u> 71
					(Sum of A, B & C)

EVALUATION TALLY SHEET (Part II)

Historic Resource Name: 80 6th Street South

<u>D. INTEGRITY</u>	<u>E</u>	<u>VALUE</u>			<u>FP</u>				
		<u>VG</u>	<u>G</u>						
13. CONDITION	-	0.03	0.05	0.10	0	X*	71	=	0
							*from A, B, C Subtotals		
14. EXTERIOR ALTERATIONS	-	0.05	0.10	0.20	0	X*	56	=	0
							*from A and C Subtotals		
	-	0.03	0.05	0.10	0	X*	15	=	0
							*from B Subtotals		
15. STRUCTURAL REMOVALS	-	0.20	0.30	0.40	0	X*	56	=	0
							*from A and C Subtotals		
	-	0.10	0.20	0.40	0	X*	15	=	0
							*from B Subtotals		
16. SITE	-	0.10	0.20	0.40	0	X*	15	=	0
							*from B Subtotals		

INTEGRITY DEDUCTIONS SUBTOTAL: 0

ADJUSTED SUBTOTAL: 71 - 0 = 71
(Preliminary Total minus Integrity Deductions)

<u>E. REVERSIBILITY</u>	<u>E</u>	<u>VALUE</u>			<u>FP</u>	
		<u>VG</u>	<u>G</u>			
17. EXTERIOR	3	3	2	2		
						TOTAL: <u>71</u>

<u>F. ADDITIONAL CONSIDERATIONS/ BONUS POINTS</u>	<u>E</u>	<u>VALUE</u>			<u>FP</u>	
		<u>VG</u>	<u>G</u>			
18. INTERIOR/VISUAL QUALITY	3	3	1	0		<u>N/A</u>
19. HISTORY/ASSOCIATION OF INTERIOR	3	3	1	0		<u>N/A</u>
20. INTERIOR ALTERATIONS	4	4	2	0		<u>N/A</u>
21. REVERSIBILITY/INTERIOR	4	4	2	0		<u>N/A</u>
22. NATIONAL OR CALIFORNIA REGISTER	20	15	10	0		

BONUS POINTS SUBTOTAL: 0

ADJUSTED TOTAL (Plus Bonus Points): 71



Location Map

File Num: HL08-179 & MA08-011

District: 3

Quad: 83

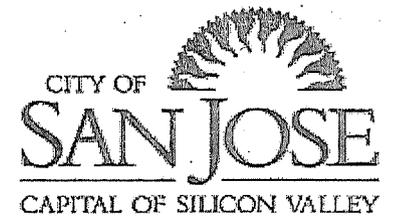


Map Created On:
11/19/2008

Prepared by the Department of Planning, Building, and Code Enforcement
City of San Jose, California

Noticing Radius: 500 Ft

Joseph Horwedel, Director



Reducing Property Taxes with the Mills Act

By Ken Fowler

Anyone who owns an older home would love to have more money available to maintain and restore it. The good news is that the state Mills Act can help free up those funds by reducing your real estate taxes. If you promise to use those tax savings to preserve your property's historic character, your recalculated property taxes using the special Mills Act assessment method can be reduced 50% or more!

What Property Is Eligible and How It Works

The City of San Jose has adopted the Mills Act and will enter into contracts only with property owners of designated city landmarks. The landmarking process must be completed before a Mills Act contract is initiated. See the accompanying story for how PAC**SJ* member Rusty Lutz just obtained city landmark status for his North Second Street apartment building. (If you outside San Jose, check with your local planning office for what they have deemed a qualified historic property. Property owners in unincorporated Santa Clara County should contact the County Historical Heritage Commission.)

A Mills Act contract runs for 10 years and renews itself automatically. If the city or property owner chooses not to renew, the contract

will terminate at the end of the current 10-year term. The city or property owner may also cancel the contract, but a penalty may be assessed.

How the Reduced Property Tax Is Computed

Mills Act contracts are available for income property and for owner-occupied property. Property valuation is determined by the "income" method. Generally, the income, or projected income, less certain expenses, is divided by a capitalization rate to determine the assessed value of the property. When a property is owner occupied, the determination of "income" is based on what a property could reasonably be expected to yield in rental income. In the case of income-producing property, the income amount is based on rent actually received and on typical rents received for similar property in similar use.

Here's an example of how much money would be saved on a historic residence assessed at \$800,000. At a 1% property tax rate, current taxes would be \$8,000. Let's say the property does or could generate a \$5,000 monthly income, or a \$60,000 annual gross. Let's say expenses (things like insurance, repairs, and utilities) run \$10,000 a year. That would be a net income of \$50,000. To determine the



capitalization rate, we add up four components:

1. Your mortgage rate (for this example, let's say 4%)
2. A historical property risk component (4% for owner-occupied single-family residences, 2% for other cases)
3. Amortization (for this example, let's say 5%)
4. Your property tax rate (for this example, 1%)

These four components add up to 14%. Divide \$50,000 by 0.14, and you get the new assessed value of the residence, \$357,143. Instead of the original \$8,000 in property taxes, the new taxes would be \$3,571. That's a yearly savings of \$4,429.

DRAFT

COUNCIL AGENDA: 4/7/09

ITEM:

RESOLUTION NO.:

HISTORIC LANDMARK PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this 7th day of April, 2009, by and between the City of San Jose, a municipal corporation (hereinafter referred to as the "CITY") and Marvin K. Williams (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

WHEREAS, OWNER possesses fee title in and to that certain real property, together with associated structures and improvements thereon, the Reverend G. A. Miller Residence House (City Landmark Number HL08-179), located at 80 S. Sixth 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 April 7, 2009 the City Council of the City of San Jose adopted a Resolution thereby declaring and designating the Historic Landmark as a historic landmark structure 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 April 7, 2009 (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 December 6, 2002, 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 annual 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: Marvin K. Williams
88 S. Third Street, Suite 193
San José, CA 95113

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, MMC
City Clerk

“OWNER”

By _____
MARVIN K. WILLIAMS

EXHIBIT "A"

**LEGAL DESCRIPTION
FOR
MA08-011
(See attached)**

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.

Historical Property Contract, File No. MA08-011

Preservation Plan (Exhibit "C")

Reverend G. A. Miller Residence, 80 S. Sixth Street

City Landmark No. HL08-179

Marvin Williams K. 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. 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 all of the following tasks.

Year	Description
One	Foundation repairs
Two	Landscape upgrades
Three	Exterior window & door restoration
Four	Gutter & downspout restoration
Five	Exterior paint restoration
Six	Repair roof & flashing
Seven	Restore exterior trim & siding
Eight	Maintain, restore & paint iron fencing
Nine	Maintain plumbing
Ten	Repaint Exterior siding, trim & windows

After the 10th Anniversary date of the Effective Date of this Agreement, Marvin Williams K. 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 tasks each year:

Maintenance

Painting

Repairs

RESOLUTION NO.

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ DESIGNATING, PURSUANT TO THE PROVISIONS OF CHAPTER 13.48 OF TITLE 13 OF THE SAN JOSÉ MUNICIPAL CODE, THE REVEREND G. A. MILLER RESIDENCE LOCATED AT 80 S. SIXTH STREET AS A CITY LANDMARK OF SPECIAL HISTORICAL, ARCHITECTURAL, CULTURAL, AESTHETIC OR ENGINEERING INTEREST OR VALUE OF A HISTORIC NATURE

HL08-179

WHEREAS, Chapter 13.48 of Title 13 of the San José Municipal Code provides for the designation of structures and/or sites of special historical, architectural, cultural, aesthetic or engineering interest or value of a historical nature as landmarks by the City Council of the City of San José; and

WHEREAS, said Chapter 13.48 of Title 13 provides that any historic property can be nominated for designation as a City Landmark by the City Council, the Historic Landmarks Commission, or by application of the owner or the authorized agent of the owner of the property for which designation is requested; and

WHEREAS, the City Council, upon application of the owner of the property, adopted Resolution No. 74798 on February 24, 2009, initiating proceedings pursuant to said Chapter 13.48 of Title 13 for consideration of such landmark designation; and

WHEREAS, said Chapter 13.48 of Title 13 provides that before this Council may designate any building as a landmark, it shall hold at least one public hearing on such proposed designation, and that before it holds said public hearing, the Council shall refer said proposed designation to the Historic Landmarks Commission of the City of San José for its consideration at a public hearing and for its report and recommendation thereon; and

DRAFT--Contact the Office of the City Clerk at (408)535-1260 or
CityClerk@sanjoseca.gov for final document.

WHEREAS, within the time and in the manner provided by Chapter 13.48 of Title 13, the Historic Landmarks Commission did, on March 4, 2009 at 6:00 p.m., conduct a public hearing on said landmark designation and recommend approval of the designation of the Reverend G. A. Miller Residence, located at 80 S. Sixth Street, described hereinafter in Section 1 of this Resolution, as a landmark of special historical, architectural, cultural, aesthetic or engineering interest or value of a historic nature, and made certain findings with respect thereto; and

WHEREAS, a copy of the City of San José Historic Landmark Nomination Form No. HL08-179 upon which such recommendation was made is on file in the Planning Division of the City of San José and available for review; and

WHEREAS, within the time and in the manner provided by said Chapter 13.48 of Title 13, the Council gave notice that on April 7, 2009 at 1:30 p.m., or as soon thereafter as said matter could be heard, this Council would, in the City Hall of the City of San José, 200 East Santa Clara Street, San José, California, hold a public hearing on said landmark designation, at which hearing any and all persons interested in said proposed designation could appear and avail themselves of an opportunity to be heard and to present their views with respect to said proposed designation; and

WHEREAS, the subject property is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, at the aforesaid time and place set for hearing, or to which the hearing was continued, this Council duly met, convened, and gave all persons full opportunity to be heard to present their views with respect to said proposed landmark designation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSÉ AS FOLLOWS:

SECTION 1. In accordance with the provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Historic Preservation Ordinance, this Council does hereby designate the hereinafter described Reverend G. A. Miller Residence, located at

80 S. Sixth Street, as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.

SECTION 2. Said designation is based on the following criteria of the Historic Preservation Ordinance:

- Criterion (6) as an embodiment of distinguishing characteristics of an architectural type or specimen, as a representative of a high point in local Queen Anne -style residential architecture from the period of San José's *Horticultural Expansion*.

SECTION 3. The City Clerk is hereby directed to notify those persons designated in San José Municipal Code Section 13.48.110, Subsection L, in the manner specified by said Section and to direct the recordation of a Notice of Granting of this resolution in the Office of the Recorder of the County of Santa Clara.

PASSED FOR PUBLICATION of title this 7th day of April 2009, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

RESOLUTION NO.

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ
APPROVING A HISTORIC LANDMARK PRESERVATION
AGREEMENT WITH MARVIN K. WILLIAMS FOR THE LYNWOOD
APARTMENTS (CITY LANDMARK NO. HL08-179)**

MA08-011

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

WHEREAS, California Government Code Section 50280, et seq. and Chapter 13.48 of Title 13 of the San José Municipal Code authorize the City of San José to enter into agreements with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so to retain its characteristics as property of historical significance; and

WHEREAS, Marvin K. Williams possesses fee title in and to that certain real property, together with associated structures and improvements thereon, generally located at the street address 80 S. Sixth Street, City Landmark No. HL08-179 (hereinafter referred to as the "Historic Landmark") and

WHEREAS, on April 7, 2009 the City Council of the City of San José adopted its Resolution No. _____ thereby declaring and designating the Historic Landmark as a historic landmark structure pursuant to the terms and provisions of Chapter 13.48 of the San José Municipal Code; and

WHEREAS, the City of San José and Marvin K. Williams, for their mutual benefit, now desire to enter into an agreement both to protect and preserve the characteristics 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; and

DRAFT--Contact the Office of the City Clerk at (408)535-1260 or
CityClerk@sanjoseca.gov for final document

WHEREAS, within the time and in the manner provided by said Chapter 13.48 of Title 13, the Historic Landmarks Commission did, on March 4, 2009 at 6:00 p.m., conduct a public hearing on a Historic Landmark Preservation Agreement for the Historic Landmark and recommend approval of that agreement (hereinafter "Agreement"); and

WHEREAS, a copy of the Agreement upon which such recommendation was made is on file in the Office of the City Clerk of the City of San José; and

WHEREAS, the subject property upon which the Historic Landmark is situated is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, within the time and in the manner provided by said Chapter 13.48 of Title 13, the Council did give notice that on April 7, 2009 at 1:30 p.m., or as soon thereafter as said matter could be heard, this Council would, in the City Hall of the City of San José, 200 East Santa Clara Street, San José, California, hold a public hearing on said Agreement at which hearing any and all persons interested in said Agreement could appear and avail themselves of an opportunity to be heard and to present their views with respect to said proposed Agreement; and

WHEREAS, at the aforesaid time and place set for hearing, or to which the hearing was continued, this Council duly met, convened, and gave all persons full opportunity to be heard to present their views with respect to said proposed Agreement.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSÉ THAT:

SECTION 1. In accordance with the provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, this Council does hereby approve the Historic Landmark Preservation Agreement with Marvin K. Williams, owner of the Reverend G. A. Miller Residence (City Landmark No. HL08-179) located at 80 S. Sixth Street and makes the following findings:

- a. The Agreement is consistent with the General Plan, in that the proposed Contract is consistent with General Plan Historic, Archeological and Cultural Resources Policies that 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 Agreement would provide greater protection for the Historic Landmark property than is otherwise provided by the provisions of San José Municipal Code Chapter 13.48 in that 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" of the contract; and
- c. The Agreement complies with the requirements of Section 13.48.520 of Chapter 13.48 of Title 13 of the San José Municipal Code. Contracts incorporate the Municipal Code's required provisions for Historic Property Contracts, including the following: A description of the Landmark Property subject to the Contract, a provision that the term of the Contract is a minimum period of ten years, specific conditions requiring preservation of the Landmark, provision for the periodic examination of property, and a requirement that the property owner annually expend an amount equal to a minimum of 10% of the annual tax savings resulting from the Contract , and a provision that the Contract is binding upon – and shall inure to the benefit of – all successors in interest of the owners in the property.

SECTION 2. Pursuant to the San José Municipal Code, Chapter 13.48, the City Clerk is hereby directed to notify the owner of the Historic Landmark subject to the Agreement and directed to record the Agreement in the Office of the Recorder of the County of Santa Clara.

ADOPTED this 7th day of April 2009, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk