

RECORDING REQUESTED BY AND
WHEN: RECORDED MAIL TO:

This space for recorder's use only

**CONTRACT BETWEEN THE CITY OF FRESNO AND
ELLIOTT W BALCH & SHANTAY R DAVIES-BALCH FOR
HISTORIC PROPERTY PRESERVATION OF 1133 S
STREET**

THIS CONTRACT, made and entered into this ____ day of _____, 2024, by and between the CITY OF FRESNO, a charter city and municipal corporation of the State of California, hereinafter called (City), and **Elliott W Balch & Shantay R Davies-Balch** (Owners);

RECITALS

WHEREAS, Article 12 (commencing with Section 50280) of Part 1 of Division 1 of Title 5 of the California Government Code authorizes cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so as to retain its characteristics as property of historical significance; and

WHEREAS, Owners possess fee title in and to that certain real property, together with associated structures and improvements thereon, and generally located at **1133 S Street**, Fresno, California (Historic Property). A legal description of the Historic Property is attached hereto, marked as **Exhibit A**, and is incorporated herein by this reference; and

WHEREAS, in 2015, the City Council of the City Fresno declared and designated the Historic Property as a historic resource pursuant to the terms and provisions of Article 16, Historic Preservation Ordinance, Fresno Municipal Code (Ordinance); and

WHEREAS, prior to the approval, execution and recordation of this Contract, the City inspected the interior and exterior of the Historic Property to determine the condition thereof as required by Government Code Section 50281(b)(2); and

WHEREAS, City and Owners, for their mutual benefit, now desire to enter into this Contract both to protect and preserve the characteristics of historical significance of the Historic Property and to qualify the Historic Property for an assessment of valuation

pursuant to the provisions of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

AGREEMENT

NOW, THEREFORE, CITY AND OWNERS, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Contract. The term of this Contract shall commence on _____ (effective date), and shall expire ten years thereafter, on _____. Each year upon the anniversary of the effective date, the initial term will automatically be extended as provided in paragraph 2.

2. Renewal. Each year on the anniversary of the effective date of this Contract (renewal date), a year shall automatically be added to the initial term of this Contract unless notice of nonrenewal is delivered as provided in Section 3 of this Contract.

3. Notice of Nonrenewal.

a) If either Owners or City desire in any year not to renew the Contract, that party shall serve written notice of nonrenewal of the Contract on the other party in advance of the annual renewal date of the Contract. Unless such notice is served by Owners to City at least ninety (90) days prior to the annual renewal date or served by City to Owners at least sixty (60) days prior to the annual renewal date, one (1) year shall be automatically added to the term of the Contract.

b) Upon receipt by Owners of a notice of nonrenewal from City, Owners may make a written protest of the notice of nonrenewal. City may, at any time prior to the renewal, withdraw the notice of nonrenewal.

c) If either City or Owners serve notice of intent in any year not to renew the Contract, the existing Contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the Contract, as the case may be.

4. Standards for Historic Property. During the term of this Contract, the Historic Property shall be subject to the following conditions, requirements and restrictions and Owners agree to same:

a) Owners shall preserve and maintain the characteristics of historical significance of the Historic Property. Attached hereto, marked as **Exhibit B**, and incorporated herein by this reference, is a list of those minimum standards and conditions for maintenance, use and preservation of the Historic Property, which shall apply to such property throughout the term of this Contract. Owners shall also comply with the requirements set forth in the Ordinance and with the Secretary of the Interior's Rehabilitation Standards set forth in **Exhibit D** and incorporated herein by this reference.

b) Owners shall preserve and, where necessary, restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the

United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code and in accordance with the attached schedule of home improvements, attached hereto as **Exhibit C** and incorporated herein by reference.

c) Owners shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County Assessor for the County of Fresno, the California Department of Parks and Recreation, the California Board of Equalization, the Historic Resources Advisory Committee and City, as may be necessary to determine Owners' compliance with the terms and provisions of this Contract, but in any event, there shall be at least one inspection annually by one or more representatives of the City and the Historic Preservation Commission.

d) Owners or agent of Owners shall provide written notice of the contract to the California Office of Historic Preservation within six (6) months of entering into this Contract.

5. Provision of Requested Information. Owners hereby agree to furnish City with any and all information requested by the City which may be necessary or advisable to determine compliance and/or eligibility of the Historic Property with the terms and provisions of this Contract.

6. Cancellation for Breach. City, following a duly noticed public hearing pursuant to California Government Code Section 50285, may cancel this Contract if it determines that Owners breached any of the conditions of this Contract or have allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historic property. City may also cancel this Contract if it determines that the Owners have failed to restore or rehabilitate the property in the manner specified in subparagraph 4(b) of this Contract. In the event of cancellation, Owners may be subject to payment of those cancellation fees set forth in California Government Code Section 50286.

7. Enforcement of Contract. As an alternative to cancellation of the Contract for breach of any condition, City may specifically enforce, or enjoin the breach of, the terms of this Contract. In the event of a default under the provisions of this Contract by Owners, City shall give written notice to Owners by registered or certified mail addressed to the address stated in this Contract, and if such a violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such reasonable time as may be required to cure the breach or default if said breach of default cannot be cured within thirty (30) days (provided that acts to cure the breach or default must be commenced within thirty (30) days and must thereafter be diligently pursued to completion by Owners), then City may, without further notice, declare a default under the terms of this Contract and may bring any action necessary to specifically enforce the obligations of Owners growing out of the terms of this Contract, apply to any court, state or federal, for injunctive relief against any violation by Owners or apply for such other relief as may be appropriate.

City does not waive any claim of default by Owners if City does not enforce or cancels this Contract. All other remedies at law or in equity which are not otherwise

provided for in this Contract or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach or default under this Contract. No waiver by City of any breach or default under this Contract shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

8. Binding Effect of Contract. The Owners hereby subject the Historic Property described in **Exhibit A** hereto to the covenants, conditions and restrictions as set forth in this Contract. City and Owners hereby declare their specific intent that the covenants, conditions and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owners' successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, conditions, and restrictions expressed in this Contract regardless of whether such covenants, conditions, and restrictions are set forth in such contract, deed or other instrument.

City and Owners hereby declare their understanding and intent that the burden of the covenants, conditions and restrictions set forth herein touch and concern the land in that Owners' legal interest in the Historic Property may be rendered less valuable thereby. City and Owners hereby further declare their understanding and intent that the benefit of such covenants, conditions and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Historic Property for the benefit of the public and Owners.

9. Binding On Successors In Interest. All of the Contracts, rights, covenants, conditions and restrictions contained in this Contract shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

10. Hold Harmless. Owners agree to and shall hold City and its elected officials, officers, agents and employees harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owners or those of their contractor, subcontractor, agent, employee or other person acting on their behalf which relate to the use, operation and maintenance of the Historic Property. Owners hereby agree 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 Owners' activities in connection with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this Contract regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.

11. Status of Parties. None of the terms, provisions or conditions of this Contract 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 venturers or members of any joint enterprise.

12. California Law. This Contract shall be construed and governed in accordance with the laws of the State of California.

13. Notice. Any notice required to be given by the terms of this Contract shall be given in writing and delivered personally or by depositing the same with the U.S. Postal Service, first class (or equivalent) postage prepaid, addressed to the respective parties as specified below their signatures or at such other address as may be later specified by them.

14. Severability. In the event that any of the provisions of this Contract 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 provision, or portions thereof, shall not be affected thereby.

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

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

17. Paragraph Headings. Paragraph headings as used herein are for convenience only and shall not be deemed to be a part of such paragraphs and shall not be construed to change the meaning thereof.

[SIGNATURES FOLLOW ON THE NEXT PAGE]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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

State of California)
County of _____)

On _____ before me, _____
Date Here Insert Name and Title of the Officer

personally appeared _____
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer - Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer - Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

EXHIBIT A

LEGAL DESCRIPTION

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF FRESNO, CITY OF FRESNO, AND IS DESCRIBED AS FOLLOWS:

LOTS 7 AND 8 IN BLOCK 164 OF FRESNO CITY, IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 1 PAGE 26 OF PLATS, FRESNO COUNTY RECORDS.

APN: 466-035-02

EXHIBIT B

HISTORIC PROPERTY PRESERVATION CONTRACT PROPERTY MAINTENANCE

Property Maintenance. All buildings, structures, yards, and other improvements shall be maintained in a manner which does not detract from the appearance of the immediate neighborhood. The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as:
fences, roofs, doors, walls, windows;
2. Scrap lumber, junk, trash or debris;
3. Abandoned, discarded or unused objects or equipment, such as
automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers,
or similar items;
4. Stagnant water or excavations, including pools or spas:
5. Any device, decoration, design, structure or vegetation which is
unsightly by reason of its height, condition, or its inappropriate location.

EXHIBIT C

SCHEDULE OF IMPROVEMENTS

	CONTRACT YEAR	SITE/BUILDING FEATURE	PROPOSED WORK/TASK	ESTIMATED COST
1.	2025-2026	REAR PATIO ENCLOSURE	Remove/Rebuilt Rear Patio Enclosure	\$20,000
2.	2027-2028	ROOF	New Roof Including Skylight, Attic Fan, Rain Gutters	\$25,000
3.	2029	TRIM	Replace Any Rotting Trim	\$500
4.	2030-2031	INTERIOR DOORS	Replace/Soundproof Doors	\$2,000
5.	2032-2034	BASEMENT HEATERS	Replace Furnaces & Possible Asbestos Ductworks	\$19,500
TOTAL				\$62,000

A Work Plan consisting of rehabilitation, restoration, and/or maintenance measures consistent with the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the Secretary of the Interior's Standards for the Treatment of Historic Properties, and the State Historical Building Code is required for the property.

EXHIBIT D

SECRETARY OF THE INTERIOR'S REHABILITATION STANDARDS

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.