



SAN FRANCISCO  
PLANNING  
DEPARTMENT

# PRESERVATION BULLETIN NO. 8

## The Mills Act Program

Date Issued:  
**JANUARY 2003**  
Reprinted:  
**JANUARY 2010**

Relevant Topic(s):  
**HISTORIC PRESERVATION COMMISSION  
REVIEW**

The Mills Act is recognized as the single most important economic incentive program available in California for use by private property owners of qualified historic buildings.

### THE MILLS ACT HISTORICAL PROPERTY CONTRACT PROGRAM

Enacted by the State of California in 1976 and amended in the San Francisco Administrative Code in 1996, the Mills Act is state-sponsored legislation that grants local governments the ability to directly participate in an historic preservation and economic incentive program. The Mills Act Historical Property Contract program allows qualified owners to receive property tax reduction and use that savings to offset the costs to rehabilitate, restore and maintain their properties.

### THE APPLICATION GUIDE

This Application Guide is a summary of the Mills Act Historical Property Contract ("Mills Act Contract") Program's features. The complete details are described in the legal texts of the San Francisco Administrative Code, Chapter 71, California Government Code Sections 50280-50290 and California Taxation Code Article 1.9, Sections 439-439.4.

**IMPORTANT:** Please read the entire application guide before you get started. Applicants are responsible for all of the information contained in the Application Guide. Be sure to review the Application Checklist to ensure that you are submitting all of the required documents for the application. A Mills Act Historical Property Contract application provides the potential for property tax reduction. It is not a guarantee. Each property varies according to its income-generating potential and current assessed value. Mills Act properties are reassessed annually and periodically inspected for contract compliance.

**REMEMBER:** The Mills Act is for property owners who are actively rehabilitating their properties or have recently completed a rehabilitation project compliant with the *Secretary of the Interior's Treatment of Historic Properties*, in particular the Standards for Rehabilitation, and the California Historical Building Code. Recently completed projects shall mean completed in the year prior to the application. Applicants who enter into a contract with San Francisco and fail to rehabilitate or maintain the property are subject to the City cancelling the contract and the Assessor collecting the 12 1/2 percent of current fair market value penalty against the property.

## MILLS ACT HISTORICAL PROPERTY CONTRACT

The Mills Act Contract is an agreement between the City and County of San Francisco and the owner of a qualified property based on California Government Code, Article 12, Sections 50280-50290 (Mills Act). This state law, established in 1976, provides for a property tax reduction for owners of qualifying historic properties who agree to comply with certain preservation restrictions and use the property tax savings to help offset the costs to restore, rehabilitate, and maintain their historic resource according to the *Secretary of the Interior's Standards* and the California Historical Building Code. The San Francisco Board of Supervisors approves all final contracts. Once executed, the contract is recorded on the property and leads to reassessment of the property the following year.

The purpose of an Mills Act Historical Property Contract is to restore, rehabilitate and maintain historic properties.

## WHAT PROPERTIES ARE ELIGIBLE?

In Order to participate in the Mills Act Contract Program, qualifying properties must be identified in the following categories:

- **Individually Designated Pursuant to Article 10 of the Planning Code.** Properties that have been designated an individual landmark and approved by the Board of Supervisors are eligible for the Mills Act program. It should be noted that the entire property shall be listed.
- **Contributory Buildings in Historic Districts Designated Pursuant to Article 10 of the Planning Code.** Properties that have been listed as a contributory structure to a local historic district are eligible for the Mills Act Program.
- **Properties Designated as Significant (Category I or II) Pursuant to Article 11 of the Planning Code.** Properties located in the C-3 zoning District that have been determined to be a Category I or II Significant Building are eligible for the Mills Act Program.
- **Properties Designated as Contributory (Category IV) to a Conservation District Pursuant to Article 11 of the Planning Code.**
- **Properties Designated as Contributory (Category III) Pursuant to Article 11 of the Planning Code.** Properties in the C-3 zoning District that have been listed as a Contributory Structure (Category III) which are located outside of a Conservation District are eligible for the Mills Act program.
- **Individual Landmarks under the National Register of Historic Places.** Properties that have been officially designated as a National Register individual landmark are eligible for the Mills Act program.
- **Contributory Buildings in National Register of Historic Places Historic Districts.** Properties that have been identified as a contributory building in a National Register Historic District are eligible for the Mills Act program.

If there are any questions about whether your property is eligible please contact the Planning Department at (415) 558-6377.

## WHAT PROPERTIES ARE INELIGIBLE?

Properties with outstanding code violations issued by the Planning Department or the Department of Building Inspection are not eligible to apply for the Mills Act Program. All code violations must be corrected before an application is accepted. Properties with delinquent taxes are also not eligible to apply. The person/entity submitting the application must retain ownership through contract recording otherwise the contract is nullified by the City.

## TAX ASSESSMENT VALUE

All properties that are eligible under the criteria listed above must also meet a tax assessment value to be eligible for a Mills Act Contract. All owners of a property must enter into the Mills Act contract with the City.

For properties with multiple owners, every owner must enter into the Mills Act contract with the City.

### **Residential Buildings**

Eligibility is limited to a property tax assessment value of not more than \$3,000,000.

### **Commercial, Industrial or Mixed Use Buildings**

Eligibility is limited to a property tax assessment value of not more than \$5,000,000.

### **Exceptions From Property Value Limits**

Properties may be exempt from the tax assessment values if it meets any one of the following criteria:

- The qualified historic property is an exceptional example of architectural style or represents a work of a master architect or is associated with the lives of persons important to local or national history; or
- Granting the exemption will assist in the preservation and rehabilitation of a historic structure (including unusual and/or excessive maintenance requirements) that would otherwise be in danger of demolition, deterioration, or abandonment; and
- Granting the exemption will not cause the cumulative loss of property tax revenue to the City to exceed \$1,000,000 annually.

**NOTE:**

Owners of properties with comparatively low property taxes because of Proposition 13 will not benefit by a Mills Act contract because the assessed value under the Mills Act will likely be higher than the existing base-year value of the property. Generally, owners who have purchased their properties within the last ten years are most likely to benefit from entering into a Mills Act contract.

Properties applying for a valuation exemption must provide evidence that it meets the exemption criteria, including a historic structure report to substantiate the exemption circumstances for granting the exemption. The Historic Preservation Commission shall make specific findings as whether to recommend to the Board of Supervisors if the valuation exemption shall be approved. Final approval of this exemption is under the purview of the Board of Supervisors.

## TERMS OF THE MILLS ACT HISTORICAL PROPERTY CONTRACT

### **Duration of Contract**

The Mills Act contract is for a minimum term of ten years. It automatically renews each year on its anniversary date and a new ten-year term becomes effective. The contract runs (essentially in perpetuity) with the land.

### **Termination of the Contract**

The owner may terminate the contract by notifying the City at least ninety days prior to the annual renewal date. The City may terminate the contract by notifying the owner at least sixty days prior to the renewal date. The owner may make a written protest about termination by the City. The contract remains in effect for the balance of the 10-year term of the contract beyond the notice of non-renewal.

### **Alterations or Additions**

Any work performed to the property (interior, exterior, and grounds) must conform to the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, specifically, the Standards for Rehabilitation and the California Historical Building Code.

### **Inspections and Monitoring**

The City conducts annual inspections of the property. There may be certain circumstances where the City will need to conduct a periodic inspection of the property. Conditions not conforming to the *Secretary of the Interior's Standards* may be required to be brought into compliance. The City also encourages the property owner to self-inspect and apprise the Planning Department of the progress of rehabilitating and maintaining their property.

### **Breach of Contract**

If the property owner is found to be in breach of contract, the City may cancel the contract whereupon the Assessor will collect a cancellation fee of 12 1/2 percent of the fair market value of the property as determined by the Assessor.

### **Transfer of Ownership**

A Mills Act Contract is attached to the property. Subsequent owners are bound by the terms and conditions of the contract, and obligated to complete any work identified in the contract and perform required maintenance. It is incumbent upon the seller of a Mills Act property to disclose this fact to potential buyers. For example, if an owner completes some of the contract mandated work in the first five years and then sells the property, the new buyer would have five years to complete the rehabilitation/restoration of the property.

## CITY APPROVALS

An application is submitted to the Planning Department. Upon submittal,

- Planning staff reviews the application for completeness and determines eligibility;
- Planning staff forwards a copy of the application to the Assessor's Office for their review and analysis of the property tax valuation;
- Upon receipt of a final Mills Act property valuation analysis report from the Assessor's office, Planning staff will present to the following bodies for approval, denial, or approval with modifications of the Mills Act application in the following order: Historic Preservation Commission, Board of Supervisors Budget & Finance Committee, and the full Board of Supervisors. Final approval of the contract is conferred by the Board of Supervisors.

To grant approval of a contract, the Board of Supervisors must determine that:

- The contract meets the eligibility requirements or the valuation exemption;
- Entering into the contract will not cause the cumulative loss of property tax revenue to the City to exceed \$1,000,000 annually;
- The property meets the priority consideration criteria; and
- Rehabilitation, restoration, and/or maintenance will occur in conjunction with the Historical Property Contract and will not impair the integrity of historic building.

## RECORDING OF CONTRACT

If the Board of Supervisors authorize a Mills Act Contract with the property owner, the final contract must be signed by the Director of Planning, City Attorney, Assessor-Recorder, and property owner.

The contract must be recorded with the County/City Recorder. Property owners who enter into a Mills Act contract are obligated to inform the California Office of Historic Preservation within 6 months.

### NOTE:

The City will impose a modest annual Mills Act contract maintenance fee, which will cover costs associated with inspections and other miscellaneous tasks.

## PROPERTY INSPECTIONS

Inspections of the property are conducted by the Planning Department annually to monitor properties for compliance to the terms of the contract. Inspections may also be necessary on a periodic basis. Inspections monitor the progress of the rehabilitation and/or maintenance specified in the contract. Inspections are ongoing for the life of the contract.

## Frequently Asked Questions

### **? *If I own an historic property am I obligated to participate in the program?***

No. Participation is voluntary. The contracts are intended for property owners who have a strong commitment to historic preservation, and to assist property owners who plan to rehabilitate their property.

### **? *What is the term of an Historical Property Contract?***

The contract is written for an initial term of 10 years. However, the contract automatically renews each year on its anniversary date. The contract, in effect, runs in perpetuity with the land. The initial 10-year term is the period of time in which major rehabilitation projects should be substantially completed. If an owner desires to be released from the contract, a letter of non-renewal is submitted to the City. The owner is released from the contract ten years after the notice of non-renewal is submitted.

### **? *How are my property taxes reduced?***

Instead of basing your property tax on the purchase price of your property (Proposition 13, Base Year Value), the Assessor reassesses your property on its ability (or potential ability) to produce income (Income Approach). Using the Income Approach, the Assessor values the property according to the capitalization of income, whereby the property's potential income is divided by a pre-determined capitalization rate to establish a new assessed property value to be taxed. The Income Approach for an owner occupied property is based on its potential rental value. Commercial, industrial, or multi-family properties would have an actual income that is used for the calculation.

### **? *What type of property is likely to benefit?***

Property purchased after 1999 is most likely to receive the highest reduction. Property purchased prior to 1999 will likely receive a minimal reduction. Property purchased prior to 1978 (Proposition 13) is unlikely to receive a tax reduction. The Historical Property Contract Program does not guarantee a reduction amount for any property. Properties that have more recently sold (e.g. within the last 10 years) are likely to see greater tax reductions.

### **? *How much of a reduction will I receive?***

The application Tax Adjustment Worksheet is provided to assist you in calculating the potential reduction on your property. Calculated accurately, it will provide you with an idea of your potential reduction. It is not a guarantee. Remember that a reduction is based only on the General Tax Levy portion of your bill and DOES NOT reduce other portions of your tax bill.

**? What happens if I want to sell my property after I have a Mills Act Contract?**

The contract will always remain with the property, and the new owner is obligated to meet the contract requirements. This can enhance the marketability of the property because it is not reassessed at its new market value when it changes hands. Rather, new owners will likely pay property taxes based on the existing or proximate Mills Act Valuation notice.

**? Are there potential penalties for property owners with a Mills Act Contract?**

Yes. If a property is not maintained under the terms of the contract, is improperly altered, or if rehabilitation work is not performed, the owner could be found in breach of contract. If the breach of contract cannot be resolved to satisfy the contract, the Contract is cancelled and the owner is assessed a 12 ½ percent penalty based on the current fair-market value of the property.

**? How long does it take to get a Contract?**

The contracts are approved and recorded by the end of each fiscal year. Reassessments start after January 1 of the year following the contract recordation. You should see the Mills Act Valuation notice as part of the next property tax bill.

**? If I apply for a Mills Act Historic Property Contract, is the City obligated to enter into the contract?**

No. The City will evaluate each individual contract application alongside a set of priority criteria and determine which applications are most likely to yield the greatest public benefit.

**? Am I required to open my property to the public?**

No. The Mills Act Historic Property Program does not require the property owner to grant public access to the property. The contract does specify that by prior appointment an inspection of the property may be made by City officials, as may be needed to determine compliance with the terms and provisions of the contract.

**? Where can I learn more about the Mills Act?**

The California State Office of Historic Preservation (OHP) is responsible for administration of Federally and State mandated historic preservation programs in California. The OHP website offers information on a wide range of historic preservation topics including the Mills Act. The link to the OHP website is <http://www.ohp.parks.ca.gov>. The direct link to the Mills Act program is found at [www.ohp.parks.ca.gov/default.asp?page\\_id=21412](http://www.ohp.parks.ca.gov/default.asp?page_id=21412).

## Government Codes

### CALIFORNIA GOVERNMENT CODE SECTIONS 50280-50290

**50280.** Upon the application of an owner or the agent of an owner of any qualified historical property, as defined in Section 50280.1, the legislative body of a city, county, or city and county may contract with the owner or agent to restrict the use of the property in a manner which the legislative body deems reasonable to carry out the purposes of this article and of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code. The contract shall meet the requirements of Sections 50281 and 50282.

**50280.1.** “Qualified historical property” for purposes of this article, means privately owned property which is not exempt from property taxation and which meets either of the following:

- (a) Listed in the National Register of Historic Places or located in a registered historic district, as defined in Section 1.191-2(b) of Title 26 of the Code of Federal Regulations.
- (b) Listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.

**50281.** Any contract entered into under this article shall contain the following provisions:

- (a) The term of the contract shall be for a minimum period of 10 years.
- (b) Where applicable, the contract shall provide the following:
  - (1) For the preservation of the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior’s Standards for Rehabilitation, and the State Historical Building Code.
  - (2) For the periodic examinations of the interior and exterior of the premises by the assessor, the Department of Parks and Recreation, and the State Board of Equalization as may be necessary to determine the owner’s compliance with the contract.
  - (3) For it to be binding upon, and inure to the benefit of, all successors in interest of the owner. A successor in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract.
- (c) The owner or agent of an owner shall provide written notice of the contract to the Office of Historic Preservation within six months of entering into the contract.

**50281.1.** The legislative body entering into a contract described in this article may require that the property owner, as a condition to entering into the contract, pay a fee not to exceed the reasonable cost of administering this program.

**50282.**

- (a) Each contract shall provide that on the anniversary date of the contract or such other annual date as is specified in the contract, a year shall be added automatically to the initial term of the contract unless notice of nonrenewal is given as provided in this section. If the property owner or the legislative body desires 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 the notice is served by the owner at least 90 days prior to the renewal date or by the legislative body at least 60 days prior to the renewal date, one year shall automatically be added to the term of the contract.

- (b) Upon receipt by the owner of a notice from the legislative body of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The legislative body may, at any time prior to the renewal date, withdraw the notice of nonrenewal.
- (c) If the legislative body or the owner serves 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.
- (d) The owner shall furnish the legislative body with any information the legislative body shall require in order to enable it to determine the eligibility of the property involved.
- (e) No later than 20 days after a city or county enters into a contract with an owner pursuant to this article, the clerk of the legislative body shall record with the county recorder a copy of the contract, which shall describe the property subject thereto. From and after the time of the recordation, this contract shall impart a notice thereof to all persons as is afforded by the recording laws of this state.

**50284.** The legislative body may cancel a contract if it determines that the owner has breached any of the conditions of the contract provided for in this article or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. The legislative body may also cancel a contract if it determines that the owner has failed to restore or rehabilitate the property in the manner specified in the contract.

**50285.** No contract shall be canceled under Section 50284 until after the legislative body has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be mailed to the last known address of each owner of property within the historic zone and shall be published pursuant to Section 6061.

**50286.**

- (a) If a contract is canceled under Section 50284, the owner shall pay a cancellation fee equal to 12 ½ percent of the current fair market value of the property, as determined by the county assessor as though the property were free of the contractual restriction.
- (b) The cancellation fee shall be paid to the county auditor, at the time and in the manner that the county auditor shall prescribe, and shall be allocated by the county auditor to each jurisdiction in the tax rate area in which the property is located in the same manner as the auditor allocates the annual tax increment in that tax rate area in that fiscal year.
- (c) Notwithstanding any other provision of law, revenue received by a school district pursuant to this section shall be considered property tax revenue for the purposes of Section 42238 of the Education Code, and revenue received by a county superintendent of schools pursuant to this section shall be considered property tax revenue for the purposes of Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code.

**50287.** As an alternative to cancellation of the contract for breach of any condition, the county, city, or any landowner may bring any action in court necessary to enforce a contract including, but not limited to, an action to enforce the contract by specific performance or injunction.

**50288.** In the event that property subject to contract under this article is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the legislative body to frustrate the purpose of the contract, such contract shall be canceled and no fee shall be imposed under Section 50286. Such contract shall be deemed null and void for all purposes of determining the value of the property so acquired.

**50289.** In the event that property restricted by a contract with a county under this article is annexed to a city, the city shall succeed to all rights, duties, and powers of the county under such contract.

**50290.** Local agencies and owners of qualified historical properties may consult with the State Historical Resources Commission for its advice and counsel on matters relevant to historical property contracts.

#### CALIFORNIA REVENUE AND TAXATION CODE SECTIONS 439-439.4

**439.** For the purposes of this article and within the meaning of Section 8 of Article XIII of the Constitution, property is “enforceably restricted” if it is subject to an historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

**439.1.** For purposes of this article “restricted historical property” means qualified historical property, as defined in Section 50280.1 of the Government Code, that is subject to a historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. For purposes of this section, “qualified historical property” includes qualified historical improvements and any land on which the qualified historical improvements are situated, as specified in the historical property contract. If the historical property contract does not specify the land that is to be included, “qualified historical property” includes only that area of reasonable size that is used as a site for the historical improvements.

**439.2.** When valuing enforceably restricted historical property, the county assessor shall not consider sales data on similar property, whether or not enforceably restricted, and shall value that restricted historical property by the capitalization of income method in the following manner:

- (a) The annual income to be capitalized shall be determined as follows:
- (1) Where sufficient rental information is available, the income shall be the fair rent that can be imputed to the restricted historical property being valued based upon rent actually received for the property by the owner and upon typical rentals received in the area for similar property in similar use where the owner pays the property tax. When the restricted historical property being valued is actually encumbered by a lease, any cash rent or its equivalent considered in determining the fair rent of the property shall be the amount for which the property would be expected to rent were the rental payment to be renegotiated in the light of current conditions, including applicable provisions under which the property is enforceably restricted.
  - (2) Where sufficient rental information is not available, the income shall be that which the restricted historical property being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the property is enforceably restricted.
  - (3) If the parties to an instrument that enforceably restricts the property stipulate therein an amount that constitutes the minimum annual income to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated. For purposes of this section, income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money’s worth, including any cash rent or its equivalent, that the property can be expected to yield to an owner-operator annually on the average from any use of the property permitted under the terms by which the property is enforceably restricted. Expenditures shall be any outlay or average annual allocation of money or money’s worth that can be fairly charged against the revenue expected to be received during the period used in computing the revenue. Those expenditures to be charged against revenue shall be only those that are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the property, property taxes, corporation income taxes, or corporation franchise taxes based on income.

- (b) The capitalization rate to be used in valuing owner-occupied single family dwellings pursuant to this article shall not be derived from sales data and shall be the sum of the following components:
  - (1) An interest component to be determined by the board and announced no later than October 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as most recently published by the Federal Housing Finance Board as of September 1, rounded to the nearest one-fourth of 1 percent.
  - (2) A historical property risk component of 4 percent.
  - (3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.
  - (4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.
- (c) The capitalization rate to be used in valuing all other restricted historical property pursuant to this article shall not be derived from sales data and shall be the sum of the following components:
  - (1) An interest component to be determined by the board and announced no later than October 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board as of September 1, rounded to the nearest one-fourth of 1 percent.
  - (2) A historical property risk component of 2 percent.
  - (3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.
  - (4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.
- (d) Unless a party to an instrument that creates an enforceable restriction expressly prohibits the valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.
- (e) The value of the restricted historical property shall be the quotient of the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b) or (c).
- (f) The ratio prescribed in Section 401 shall be applied to the value of the property determined in subdivision (d) to obtain its assessed value.

**439.3.** Notwithstanding any provision of Section 439.2 to the contrary, if either the county or city or the owner of restricted historical property subject to contract has served notice of nonrenewal as provided in Section 50282 of the Government Code, the county assessor shall value that restricted historical property as provided in this section.

- (a) Following the hearing conducted pursuant to Section 50285 of the Government Code, subdivision (b) shall apply until the termination of the period for which the restricted historical property is enforceably restricted.
- (b) The board or assessor in each year until the termination of the period for which the property is enforceably restricted shall do all of the following:
  - (1) Determine the full cash value of the property pursuant to Section 110.1. If the property is not subject to Section 110.1 when the restriction expires, the value shall be determined pursuant to Section 110 as if the property were free of contractual restriction.

## SAN FRANCISCO ADMINISTRATIVE CODE CHAPTER 71: MILLS ACT CONTRACT PROCEDURES

### SEC. 71.1. PURPOSE.

- (a) The purpose of this Chapter 71 is to implement the California Mills Act, California Government Code Sections 50280 et seq. The Mills Act authorizes local governments to enter into contracts with owners of private historical property who will rehabilitate, restore, preserve, and maintain qualified historical property. As consideration for the rehabilitation, restoration, preservation and maintenance of the qualified historical property, the City and County of San Francisco may provide certain property tax reductions in accordance with Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.
- (b) San Francisco contains many historic buildings which add to its character and international reputation. Many of these buildings have not been adequately maintained, may be structurally deficient, or may need rehabilitation. The costs of properly rehabilitating, restoring and preserving historic buildings may be prohibitive for property owners. Implementation of the Mills Act in San Francisco will make the benefits of the Mills Act available to many property owners.
- (c) The benefits of the Mills Act to the individual property owners must be balanced with the cost to the City and County of San Francisco of providing the property tax reductions set forth in the Mills Act as well as the historical value of individual buildings proposed for historical property contracts, and the resultant property tax reductions, under the Mills Act.

### SEC. 71.2. QUALIFIED HISTORIC PROPERTY.

An owner, or an authorized agent of the owner, of a qualified historical property may apply for a historical property contract. For purposes of this Chapter 71, "qualified historical property" shall mean privately owned property that is not exempt from property taxation and that is one of the following:

- (a) Individually listed in the National Register of Historic Places;
- (b) Listed as a contributor to an historic district included on the National Register of Historic Places;
- (c) Designated as a City landmark pursuant to San Francisco Planning Code Article 10;
- (d) Designated as contributory to an historic district designated pursuant to San Francisco Planning Code Article 10;  
or
- (e) Designated as significant (Categories I or II) or contributory (Categories III or IV) to a conservation district designated pursuant to San Francisco Planning Code Article 11.

### SEC. 71.3. APPLICATION FOR HISTORICAL PROPERTY CONTRACT.

An owner, or an authorized agent of an owner, of a qualified historical property may submit an application for a historical property contract to the Planning Department on forms provided by the Planning Department. The property owner shall provide, at a minimum, the address and location of the qualified historical property, evidence that the property is a qualified historical property, the nature and cost of the rehabilitation, restoration or preservation work to be conducted on the property, and a plan for continued maintenance of the property. The Planning Department may require any further information it determines necessary to make a recommendation on the historical property contract.

### SEC. 71.4. APPROVAL PROCESS.

- (a) Review by the Assessor's Office. The Planning Department shall refer the application for historical property contract to the San Francisco Assessor for its review and recommendation. The Assessor shall provide to the Board of Supervisors an estimate of the property tax calculations and the difference in property tax assessments under the different valuation methods permitted by the California Mills Act so that the City can evaluate the difference between property tax which would normally be collected by the City and the property tax which would be collected pursuant to the historical property contract.

- (b) Landmarks Board Review. The Landmarks Preservation Advisory Board shall hold a public hearing to review the application for the historical property contract and shall make its recommendation to the Planning Commission on the proposed rehabilitation, restoration or preservation work, the historical value of the qualified historical property and any proposed preservation restrictions and maintenance requirements.
- (c) Planning Commission Review. Upon receipt of the Landmarks Board's recommendation, the Planning Commission shall hold a public hearing to review the application for the historical property contract. Upon approval by the Planning Commission, the application shall be referred to the Board of Supervisors for its review and approval or disapproval. In the event the Planning Commission disapproves the historical property contract, such decision shall be final unless the property owner appeals such disapproval by filing an appeal with the Board of Supervisors within 10 days of final action by the Planning Commission.
- (d) Board of Supervisors Decision. The Board of Supervisors shall conduct a public hearing to review the Planning Commission recommendation, the information provided by the Assessor's Office, and any other information the Board requires in order to determine whether the City should execute a historical property contract for a particular property. The Board of Supervisors shall have full discretion to determine whether it is in the public interest to enter a Mills Act historical property contract with a particular qualified historical property. The Board of Supervisors may approve, disapprove, or modify and approve the terms of the historical property contract. Upon approval, the Board of Supervisors shall authorize the Director of Planning and the Assessor to execute the historical property contract.

**SEC. 71.5. TERMS OF THE HISTORICAL PROPERTY CONTRACT.**

- (a) The historical property contract shall set forth the agreement between the City and the property owner that as long as the property owner properly rehabilitates, restores, preserves and maintains the qualified historical property as set forth in the contract, the City shall comply with California Revenue and Taxation Code Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1, provided that the Assessor determines that the specific provisions of the Revenue and Taxation Code are applicable to the property in question. A historical property contract shall contain, at a minimum, the following provisions:
  - (1) The term of the contract, which shall be for a minimum of 10 years;
  - (2) The owner's commitment and obligation to preserve, rehabilitate, restore and maintain the property in accordance with the rules and regulations of the Office of Historic Preservation of the California Department of Parks and Recreation and the United States Secretary of the Interior's standards for the Treatment of Historic Properties;
  - (3) Permission to conduct periodic examinations of the interior and exterior of the qualified historical property by the Landmarks Board, the Assessor, the Department of Building Inspection, the Office of Historic Preservation of the California Department of Parks and Recreation and the State Board of Equalization as may be necessary to determine the owner's compliance with the historical property contract;
  - (4) That the historical property contract is binding upon, and shall inure to the benefit of, all successors in interest of the owner;
  - (5) An extension to the term of the contract so that one year is added automatically to the initial term of the contract on the anniversary date of the contract or such other annual date as specified in the contract unless notice of nonrenewal is given as provided in the Mills Act and in the historical property contract;
  - (6) Agreement that the Board of Supervisors may cancel the contract, or seek enforcement of the contract, when the Board determines, based upon the recommendation of any one of the entities listed in Subsection (3) above, that the owner has breached the terms of the contract. The City shall comply with the requirements of the Mills Act for enforcement or cancellation of the historical property contract. Upon cancellation of the contract, the property owner shall pay a cancellation fee of 12.5 percent of the full value of the property at the time of cancellation (or such other amount authorized by the Mills Act), as determined by the Assessor without regard to any restriction on such property imposed by the historical property contract; and
  - (7) The property owner's indemnification of the City for, and agreement to hold the City harmless from, any claims arising from any use of the property.

- (b) The City and the qualified historical property owner shall comply with all provisions of the California Mills Act, including amendments thereto. The Mills Act, as amended from time to time, shall apply to the historical property contract process and shall be deemed incorporated into each historical property contract entered into by the City.

**SEC. 71.6. FEES.**

The Planning Department shall determine the amount of a fee necessary to compensate the City for processing and administering an application for a historical property contract. The fee shall pay for the time and materials required to process the application, based upon the estimated actual costs to perform the work, including the costs of the Planning Department, the City Attorney, the Assessor and the Board of Supervisors. The City may also impose a separate fee, following approval of the historical property contract, to pay for the actual costs of inspecting the qualified historical property and enforcing the historical property contract. Each department shall provide a written estimate of its costs to process the application. Such estimates shall be provided to the applicant, who shall pay the fee when submitting the application. In the event that the costs of processing the application are lower than the estimates, such differences shall be refunded to the applicant. In the event the costs exceed the estimate, the Planning Department shall provide the applicant with a written analysis of the additional fee necessary to complete the review of the application, and applicant shall pay the additional amount prior to any action approving the historical property contract. Failure to pay any fees shall be grounds for cancelling the historical property contract.



SAN FRANCISCO  
PLANNING  
DEPARTMENT

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No appointment is necessary.*