County of Santa Cruz

Department of Community Development and Infrastructure

701 Ocean Street, Fourth Floor, Santa Cruz, CA 95060
Planning (831) 454-2580 Public Works (831) 454-2160
sccoplanning.com dpw.co.santa-cruz.ca.us

Matt Machado - Deputy CAO / Director

AGENDA: February 10, 2025

HISTORIC RESOURCE COMMISSION STAFF REPORT

PROJECT DESCRIPTION
Proposal to implement the Mills Act in Santa Cruz County.

BACKGROUND
On December 17, 2024, the Board of Supervisors directed the Department of Community Development and Infrastructure to develop a local Mills Act program.

The Mills Act was enacted in 1972. State Senator James Mills introduced Senate Bill(SB) 357, which was then signed by Governor Reagan on December 29, 1972, in response to the plight of the Coronado Hotel (San Diego County). The legislation grants participating local governments the authority to enter into contracts with owners of historic properties. Such contracts require a reduction of property taxes in exchange for the continued preservation of the property per the Standards of the Secretary of the Interior.[1] Approximately 75 city and county governments have instituted Mills Act programs.[2]

The Mills Act is recognized by the State of California as the "single most important economic development incentive program in California for the restoration and preservation of qualified historic buildings by private property owners." Since large, ornate, wooden buildings (residential or otherwise) of the 19th and early 20th centuries are difficult and expensive to maintain, a property tax subsidy to encourage their preservation and maintenance is critical to preserving our understanding of the County's history.

Each local government establishes their own criteria and determines how many contracts they will allow in their jurisdiction. To some extent, there are as many different approaches to implementing the Mills Act as there are agencies implementing it.

The Santa Cruz County General Plan/Local Coastal Program and the ARC program states the following about the Mills Act:

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[1] The Secretary of the Interior's Standards for the Treatment of Historic Properties - Technical Preservation Services (U.S. National Park Service)
[2] https://www.parks.ca.gov/pages/1069/files/12%20millsact.pdf

Consider adoption of the Mills Act, to grant local property tax subsidies to recognized historic structures to encourage rehabilitation. (Responsibility: CDID, Historic Resources Commission, Board of Supervisors)
[1994 Program "h" - page 5-68 and 2024 General Plan Implementation Strategy ARC-8.2i]

ANALYSIS

The Mills Act is:

- …California's leading financial incentive program for historic preservation.
- …a contract between City or County and property owner that allows for potential reduction in property taxes.
- …applicable to all types of *taxable properties*: Single-Family Dwellings (SFD), Multiple-Family Dwellings (MFD), commercial and industrial.
- …a program providing incentives for restoring, rehabilitating and maintaining eligible properties.
- …a program that allows property taxes to be based on income potential of the property rather than most recent sales price or transfer value.
- …a tool that provides tax savings used to offset cost of a substantial scope of rehabilitation, restoration, and maintenance work in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

The attached Exhibit A includes a spreadsheet showing various jurisdictions' approaches to their respective Mills Act programs[3]. This exhibit is based on the following questions submitted to the jurisdictions:

1. Do you limit the number of contracts that can be approved in any particular time frame? If yes, what is your limit?
2. Do you limit the types of eligible properties (i.e., residential only)? If yes, which types are eligible/ineligible?
3. Do you limit your program to properties below a certain property value threshold? If yes, what is the threshold?

The County may decide to limit how many Mills Act contracts to consider in a year, the length of contracts and whether to put a cap on valuation, thereby reducing revenue losses – e.g., 2 or 3 million dollars would be the cut-off where a property could be exempt from the Mills Act, perhaps a higher value for commercial/industrial properties.

When the City of Monterey implemented the Mills Act in 1999, some properties accepted into the program were close to being demolished. Today the properties are in good shape and an asset to the city, which prides itself on its historic resources.

The motivation by the Monterey City Council to pause the program now comes partly from seeing an increase in groups purchasing historic homes for a quick investment. The homes are advertised as having low property taxes. Buyers make minor improvements, then sell at a profit.

[3] This exhibit was put together by Carmel-by-the-Sea planning staff in January 2023. Of the 75 jurisdictions, only 35 responded to the query.

It is important to know that historic homes can be monetized, but there's also a question of fairness to the community. When you look at it on an equity basis for a waiver of taxes, what's fair?

In Carmel, at a December 2023 City Council meeting, the Council delayed voting on an application by *Esperanza Carmel* for the *Clinton Walker Hou*se, a Frank Lloyd Wright design[4], citing equity concerns. This property was purchased in March 2024 for $22 million. This amount spent was the basis of the City Council delaying a vote on the Walker House Mills Act application because if a buyer can afford to spend that kind of money, then the buyer should be able to afford the property taxes and maintain the property per the Secretary of the Interior Standards.

In preparation of the potential implementation of the Mills Act program in the County of Santa Cruz, the County Assessor's Office conducted an analysis of the Mills Act program relative to the historic buildings listed in the County's Historic Inventory and designated either NR-1 ("National Register"), NR-2 and NR-3. There are a total of 28 buildings in the County of Santa Cruz listed in these categories. Of these 28 properties, 12 are publicly owned, or are places of worship, or are cemeteries thus are not subject to property taxes and therefore are not eligible for the Mills Act program. Of the remaining 16 properties, 9 are estimated to be potential candidates for the Mills Act. Extrapolating these numbers to the entirety of the County's approved list of historic buildings (there are 325 buildings) it could be said that one-third would be potential candidates for the Mills Act contract (i.e., 108 buildings). However, it is anticipated that fewer than 108 of the buildings would have property owners willing to engage with the County's Mills Act program and for a variety of reasons - e.g., a property owner may not want to participate in a government program, or do not understand the program and so are reluctant to engage, and, or the effort to keep track of expenditures related to restoration and, or maintenance relative to property tax relief may discourage some, etc.

As recently reported by the Assessor's Office staff, there is required an annual review of three different values to determine eligibility: the Mills Act, "Prop 13" and market value. For properties that have been under the same ownership for 10 years or more, their Prop 13 value will be more beneficial to the property owner than the Mills Act value, thereby they would not receive a property tax reduction for being in the Mills Act program. Hopefully, under these circumstances the property owner would remain committed to restoring, preserving and maintaining their historic possession.

FINANCIAL IMPACT

There are several fees associated with Mills Act contracts. Fees include an application fee, a contract fee, and a reporting and inspection fee every five years. There is also the loss of property taxes that must be considered.

RECOMMENDATIONS

1. Discuss the Mills Act to include which National Register categories to include (all National Register properties or a subset?), maximum building value, fees, submittal requirements, approval process, contract language, and provide feedback.

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[4] Frank Lloyd Wright's Iconic Carmel-by-the-Sea House Sells for $22 Million | Architectural Digest

2. Direct staff to prepare a draft guidance document to include reference to fees, application, and contract template for further consideration and recommendation to the Board of Supervisors.

Exhibits

A. Mills Act Facts Survey Results
B. Mills Act 101 PPT
C. Mills Act – OHP Technical Assistance Bulletin #12
D. Questions and Answers - Office of Historic Preservation –
E. Mills Act Contract template (Carmel)

Jurisdiction	Contact Name	Response
Fullerton	Andrew Kusch	The City may process no more than ten (10) Mills Act Contracts per calendar year. When the number of Mills Act Contracts reach 50, City Council needs to reauthorize the program and specify how may additional Mills Act Contracts will be considered. Property must have an assessed valuation of less than $800,000 dollars. Property must be residential in nature / use.
Santa Monica	Steve Mizokami	No limit (on average they get 5 a year), all property types eligible, and the program does not have a property value threshold. The program also accepts contracts where rehabilitation work performed prior to filing of a Mills Act application may be considered, provided the work was performed according to SOI Standards.
Salinas		the City limits the amount of City property tax reductions to $100,000 per year; if the number of applicants exceed the tax contribution limit, then eligible applications will be selected based upon the order by which they are received.
Sunnyvale	Nicole Johnson	limit of 3 per year; any property type is eligble and we have no valuation limit
Palo Alto		we do not have a mills act program
Sierra Madre		No more than 3 contracts per year; applications taken on first come first served.
Ventura	Jared Rosengren	We average 1 or 3 a year and have a total of like 45 out of the 120 landmarks we have
Riverside	Scott Watson	No more than 10 contracts per year.
San Mateo		does not have a program but has approved one-off contracts under state guidelines
Los Angeles	Lambert Giessinger	There are property assessed valuation thresholds in place for new applications: $1.5 million for single-family residences or $3 million for multi-family residential, commercial, or industrial properties. Any properties exceeding these valuation limits require an application for an exemption and the preparation of an Historic Structure Report.
Ventura County	Dillan Murray	No limit to number of contracts; only restriction is that they must be a local landmark or historic district contributor; and no valuation threshold
City of Monterey	Kimberly Cole	No limitations
Campbell	Daniel Fama	They are in the middle of considering changes - see packet dated 1/19/23

Coronado	Tricia Olsen	No limitations on eligible properties. We do limit the percentage of tax savings that can be realized by a property to not more than 50% reduction of the regular (non-prop 13) taxes, not including any exclusions that are included in the contracts. Our Mills Act applications are reviewed and recommended for approval or denial by our Historic Resource Commission throughout the calendar year, and in October of the following calendar year the City Council acts on the recommendations from the Commission in one batch. We do inspections of Mills Act properties every 5 years (as required by state legislation) and we do not charge a fee for those inspections.
Pasadena	Stephanie Cisneros	The application period opens up at the beginning of each year and closes by the end of May. Each year, we are allowed to approve up to 6 new contracts for multi-family, commercial or industrial properties and up to 20 new contracts for single-family properties for the year. These limits apply each new application period/year.We allow most property types – multi-family, single-family, commercial and industrial. We do not off the program to City-owned properties. We have a $2 million valuation cap for single-family properties. However, we have an exception to this cap applied to properties that are works of Greene & Greene, designated Historic Monuments, and properties listed individually in the National Register. We do offer once additional exception per year, which can be granted for special circumstances to be substantiated by the applicant.
Placentia	Andrew Gonzales	No limitations
National City	David Welch	No limitations. He thinks maybe the tax benefit for commerical properties would be less, but he doesn't have any commercial properties in their program and he's not sure how things vary county to county
Santa Clara	Rebecca Bustos	10 contracts allowed per year. No other limits.
Chico	Mike Sawley	No limits. They have only done 12 ish in the past 15 years.
Truckee	Laura Dabe	No limits. She thinks the tax benefits for commercial properties are not as significant so she recommends those owners contact the Assessor for more info

Santa Barbara	Nicole Hernandez	In Santa Barbara, we set a maximum annual Program revenue investment in preservation of the City's historic resources at $260,000. Basically the amount lost in property tax revenue can be $260,000 annually. As of 2022 The total annual investment in 63 contracts: approximately $83,924 (well under the $260,000 annual limit for the program). We are sending non-renewals notices to projects when they come to the 10 year contract end date with an option to re-apply so that more properties can participate in the program- rather than rolling in perpetuity. The subject property or structure must be a designated City Landmark, Structure of Merit, or contributing resource to a Historic District. Additionally, a single-unit, owner-occupied residential property may not exceed $2.5 million and a multi-unit residential or commercial property may not exceed $3 million in total tax assessed value to qualify for the tax reduction program. Any over that amount must have Council approval – we have to request Council approval for some properties each year, they have never denied one. The intent of the assessed valuation threshold is to allocate benefits to as many properties as possible, given the City's limit in total Program property tax revenue investment in historic resource preservation.
Oakland	Betty Marvin	Do you limit the number of contracts that can be approved in any particular time frame? If yes, what is your limit? So far we have not had more qualified applications than we could accept. The practical limit in terms of staff workload and City tax loss limits has been about ten a year. If there are more than we can accept, selection criteria include necessity and visibility of the work, significance and prominence of the building and neighborhood, catalyst potential, social and economic equity including housing preservation, thoroughness of the application, and geographic distribution (see p. 3 of application form in info packet). 2. Do you limit the types of eligible properties (i.e., residential only)? If yes, which types are eligible/ineligible? No. The Mills tax formula favors owner-occupied residences, but all property types are eligible. 3. Do you limit your program to properties below a certain property value threshold? If yes, what is the threshold? No. Large tax reductions beyond dollar caps in our ordinance require special approval by City Council

Santa Ana	Andrea Dumovich Heywood	The City of Santa Ana currently has no limits on the number of contracts that may be approved per year. However, we are in a similar process of exploring potential changes to our program, such as limiting total annual contracts. We currently allow residential and commercial properties and to my knowledge we are not planning to change that. Most of our contracts are residential.We do not limit our program a certain property value threshold.
Claremont		6 per year and must be residential
Palm Springs	Ken Lyon	No limitations. Given that the Mills Act is the only real “incentive” for people to seek historic designation and subsequently be good stewards of their historic property, we try to use the MA program to that effect and not place burdensome restrictions on the program. Cities often worry about loss of tax dollars through MA contracts; Our experience is a property that gets historic designation on our City’s register, and then gets a MA contract, improves the property and then when the property goes back on the market and sells well over what the surrounding non-historic properties sell for; it raises the comparative value of other non-historic homes – thereby creating an INCREASE in overall tax revenue from that particular part of the City; its the difference between considering a “myopic” view of the impact of MA contracts versus a more “global” view of its economic impact. Our only issue is making sure our elected officials who actually determine whether a property is going to be designated or not, maintain a high caliber of properties that they are designating, and not letting “just anything” get designated, in order to keep the overall quality of our HP program at a high quality level
San Luis Obispo	Brian Leveille	We have a limit of 10 contracts per year.We have both Contributing and Master List historic resources and only Master List properties are eligible for the Mills Act. Both residential and commercial properties are eligible if master list.No. There is no value threshold.

Encinitas	Kathy Noel	We do not limit the number of contracts. We do not limit it to residential only. Please see attached Resolution 2003-68 for criteria. City Council did make an amendment to the policy on December 14, 2021 (Resolution # 2011-59) to say that, "Any new addition or structure completed on the property shall be excluded from the Mills Act valuations." We do not limit it to a certain property value
Monrovia	Sheri Bermejo	Monrovia does not have a limit. On average we process about four per year. Both residential and nonresidential properties can apply for a Mills Act Contract.Monrovia does not have a vlauation limit either.
LA County	Katrina Castaneda	Do you limit the number of contracts that can be approved in any particular time frame? If yes, what is your limit? Not at the moment, but we are proposing an annual limit of 8 applications to the Board of Supervisors as we anticipate an upswing in applications. Do you limit the types of eligible properties (i.e., residential only)? If yes, which types are eligible/ineligible? We do not limit this, but so far, only single-family residential properties have applied. Do you limit your program to properties below a certain property value threshold? If yes, what is the threshold? Yes, we do, and it varies by property type. Currently, our Maximum Assessed Values (including both improvements and land) are $1 million for single-family residences, $1.5 million for two-family residences, and $3 million for other property types. Those thresholds were established in 2013, so we are also bringing a proposal to the Board of Supervisors to increase these values ($2.1m, $3.2m, and $6.3m, respectively). We arrived at these numbers by checking how much Median Home Values have increased in the region.

San Francisco	Elizabeth Gordon-Jonckheer	I wanted to advise you that San Francisco Mills Act staff plans to sponsor a working group session at the CPF conference entitled the Future of Mills Act. In this working group, we hope to lead a robust discussion with other jurisdictions on the effectiveness of the Program. If the City of Carmel-by-the-Sea would be interested is participating as a panelist, please let me know!1. Do you limit the number of contracts that can be approved in any particular time frame? If yes, what is your limit? We do not limit the number of applications per year. Our Administrative Code requires that "interested owners may apply for a Mills Act contract, within certain deadlines, and that staff shall process" those applications. We do determine if the applications submitted are complete by the May 1st deadline and we have a pretty robust timeframe to get the applications before our Commission and Board of Supervisors in order to be recorded by the end of the year. If the application is deemed incomplete at the May deadline, we will not proceed with processing. 2. Do you limit the types of eligible properties (i.e., residential only)? If yes, which types are eligible/ineligible? In San Francisco, to be eligible for the Mills Act, a qualified historic property may be either residential or commercial, but must either be listed individually or as a contributory building to a District on the National Register or California Register or listed under Article 10 (Landmarks) or 11 (Downtown Conservation Districts) of the San Francisco Planning Code. Properties may seek concurrent landmark designation.
San Juan Capistrano	Laura Stokes	no limits

Long Beach	Alejandro Plascencia	Max. contracts. Single Family Residential (1 dwelling unit) Maximum 12 contracts annually. Duplex or Triplex Residential (2 or 3 dwelling units)Maximum 3 contracts annually. Multifamily Residential or Mixed Residential/Commercial (4 or more dwelling units) Maximum 4 contracts annually. Non-Residential (Commercial, Industrial, or Institutional) Maximum 1 contract annually. All Property Types – exceptional properties, culturally significant or properties at risk of demolition Maximum 2 contracts annually. Valuation Limits: Single Family Residential (1 dwelling unit) = Valuation less than $1,558,465. Duplex or Triplex Residential (2 or 3 dwelling units) = Valuation less than $935,197 per dwelling unit. Multifamily Residential or Mixed Residential/Commercial (4 or more dwelling units) = No valuation limit. Non-Residential (Commercial, Industrial, or Institutional) = Valuation less than $4,032,538. All Property Types – exceptional properties, culturally significant, or properties at risk of demolition = No valuation limit – 2 contracts may be awarded.The most recent property tax bill for the property must be submitted with the Mills Act application so that these valuation limits can be verified. Priority Consideration Criteria • Properties that submitted applications in 2006 when the Program was suspended. (If this criterion applies to you, please complete the new 2023 Mills Act Application form and attach a copy of your previous 2006 Mills Act Application). • Unique or important historic structures that are in particularly poor condition and in need of significant restoration regardless of location. (If this criterion applies to you, please describe the significant restoration needed on the Priority Consideration Criteria Worksheet). • Potential new landmark properties not within designated historic districts will

Beverly Hills	Mark Odell	The City has no limits on the number of contracts that can be approved, but the following restrictions apply. Prior to our permanent ordinance created in 2019, there was a provisional ordinance which was more restrictive and did place further limits on contracts approved. Current Limits: $8,000,000 for a single-family property or residential condominium or residential stock cooperative (in which case the valuation limit shall apply to the entire building based on the total assessed value for all the units and common areas combined); $10,000,000 for a multi-family (for-rent) property; and Valuation limit of $7,500,000 set for commercial properties. Limits on tax revenue loss for the City to $500,000 per year or ($5,000,000) over 10 years. Limits on similar tax revenue loss for the Beverly Hills School District (80%) to $400,000 per year or $4,000,000 over ten years. Properties must be privately owned, designated locally as historic resources, not exempt from taxation, and located within the City limits... Properties that are over the valuation limits set could possibly participate in the Mills Act Program, but the Cultural Heritage Commission and the City Council would have to exempt these properties from the valuation limits due to “exceptional circumstances” which would be reviewed on a case-by-case basis.
Monterey County		Eligibility for historic property contracts shall be limited to residential properties whose fair market value (land plus improvement value) does not exceed three million dollars ($3,000,000.00) and commercial/industrial properties whose fair market value (land plus improvement value) does not exceed five million dollars ($5,000,000.00) as demonstrated by a certified appraisal prepared no more than one year prior to the application

https://planning.lacity.org/preservation-design/historic-resources/incentives-resources/mills-act#about

https://planning.lacity.org/preservation-design/historic-resources/incentives-resources/mills-act#program-assessment

https://www.campbellca.gov/AgendaCenter/Historic-Preservation-Board-4

*Tricia would like us to update her on our findings

https://www.cityofpasadena.net/planning/wp-content/uploads/sites/30/MILLS-ACT-PROGRAM-GUIDELINES-2022-r3.pdf?v=1673978029789

https://www.santaclaraca.gov/our-city/departments-a-f/community-development/planning-division/historic-preservation/mills-act see email with attachments 1/17/23

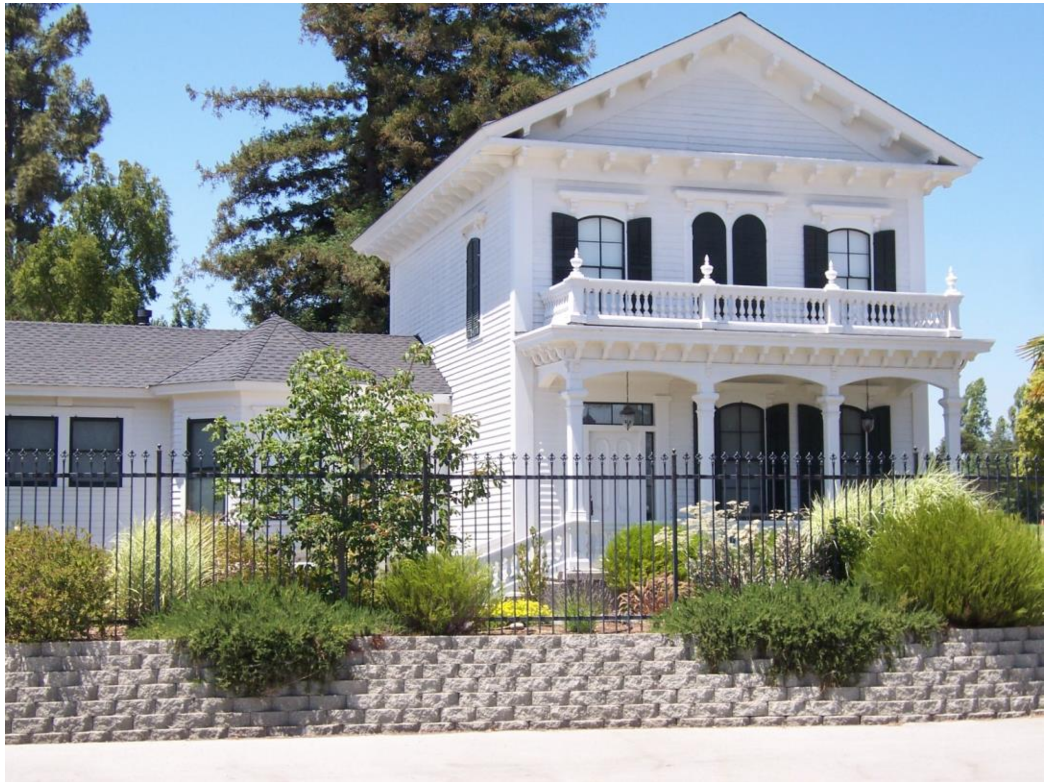
Community Development and Infrastructure Department

Mills Act
Historical Preservation
Through Property Tax Incentives

Optional Date or Subtitle Here

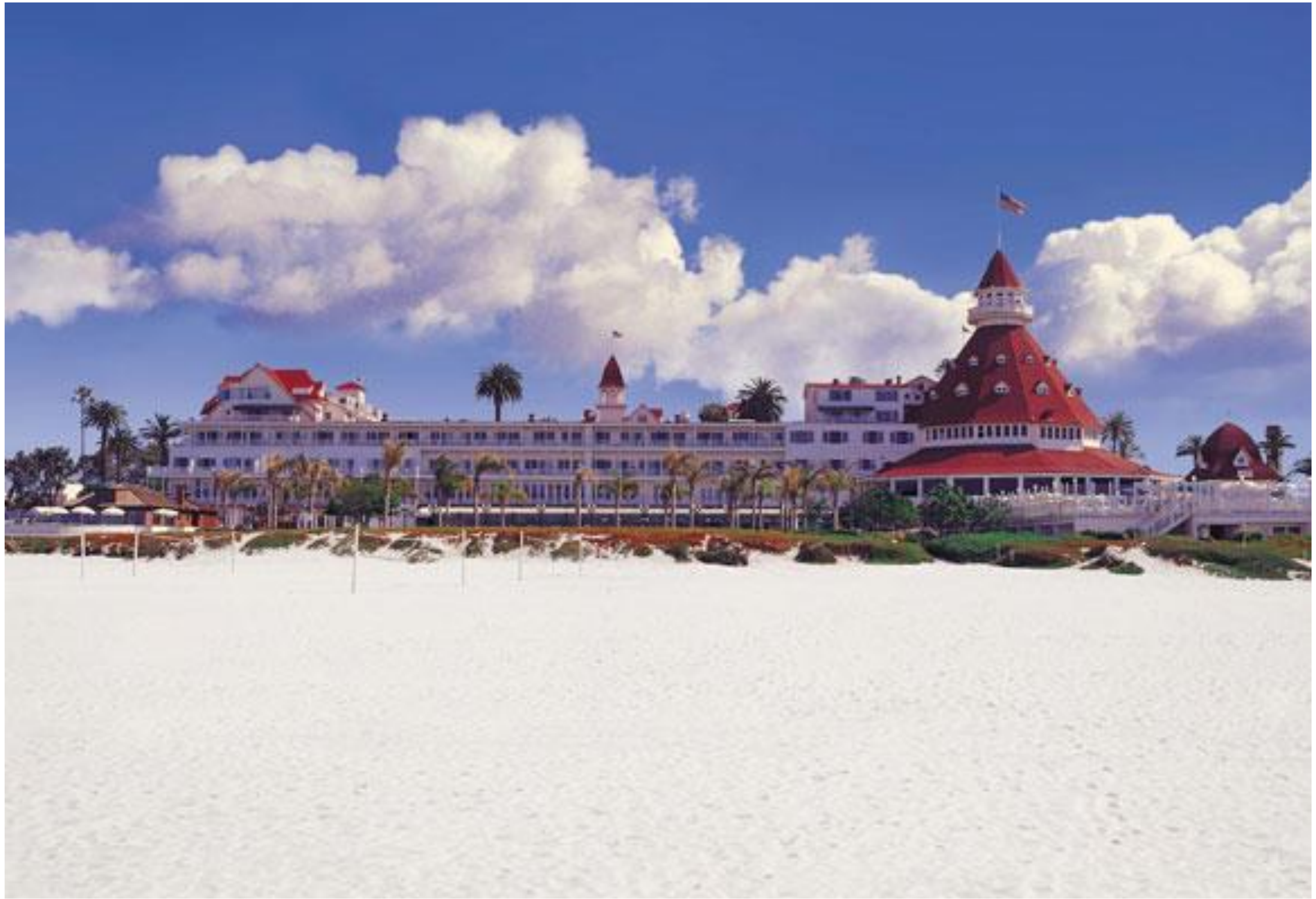
What is the Mills Act?

- A local property tax incentive to encourage restoration, rehabilitation and preservation of privately owned historic properties.
- A preservation tool to revitalize historic residential neighborhoods and commercial districts
- A program administered by cities and counties without state gov't oversight
- The properties must be on a local, state, or national register of historic places.
- Properties must be privately owned



Hotel Coronado San Diego

...where it all began

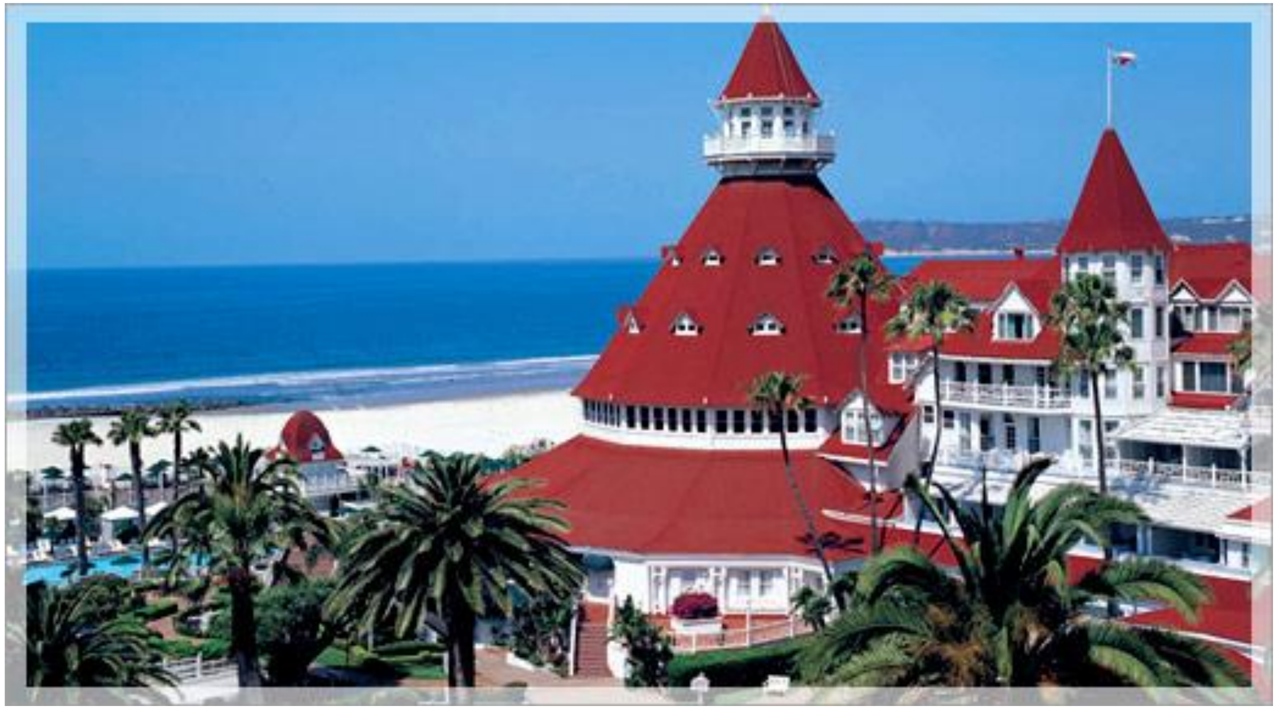


Mills Act History – part 1

- 1972- State Senator James Mills authored the "Mills Act" in response to the plight of the Coronado Hotel in San Diego.

- 1973– The law was determined unconstitutional.

- 1976– Voters approved a constitutional amendment.



Mills Act History – part 2

- 1985– The Mills Act was amended to reduce the minimum contract period, eliminate mandatory public access, and reduce the penalty for cancellation.

- 1993– The Act was amended to define restoration and rehabilitation as meeting the standards of the OHP, the State Historic Building Code and the Secretary of the Interior Interior's Standards.

Benefits to Property Owners

- Incentive to keep historic property rather than develop or sell.
- For commercial owners, can be package with other incentives.
- Tax benefit runs with title
- Tax benefit is indefinite. Open ended a the annual renewal is automatic, until non-renewal notice is filed.

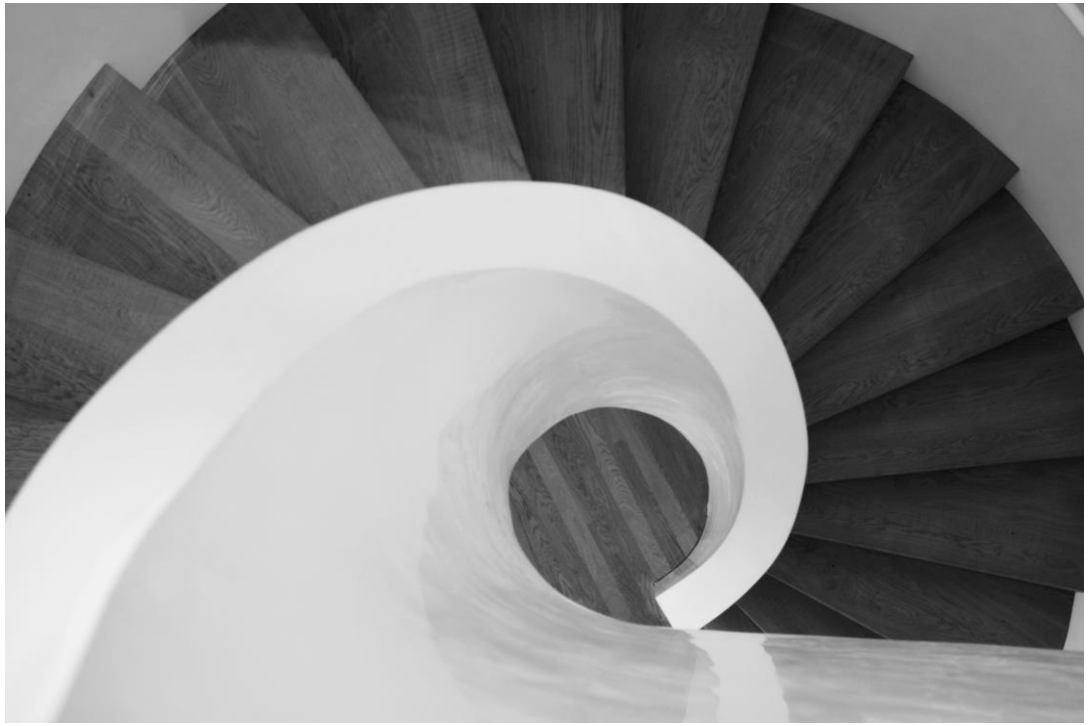
Benefits to Local Government

- Helps retain and maintain historic properties. Can foster preservation of historic neighborhoods.
- Incentive can help revitalize downtown commercial districts
- Can preserve historic fabric of community, boost cultural tourism and increase civic pride

The State's Role in Mills Act

- There is no state oversight. The authority rests with the local governments.
- The Office of Historic Preservation (OHP) advises property owners and local governments.
- The Board of Equalization advises and interprets the law for County Assessors.

How does Mills Act work? (Part 1)

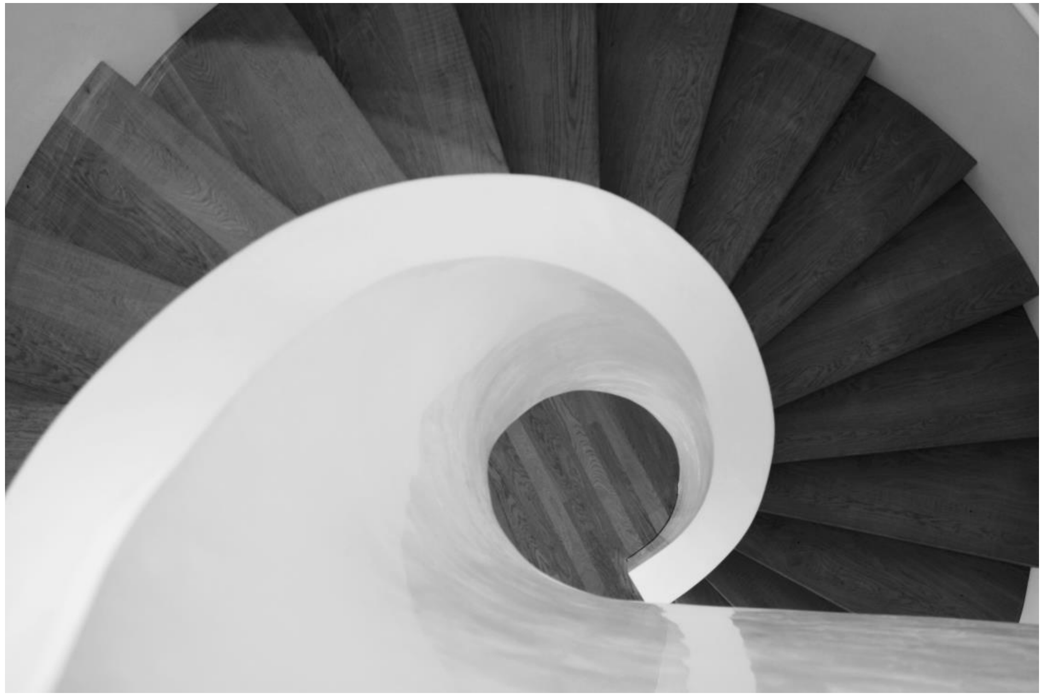


Start a 10-year contract with property owner.

The owner agrees to restore and maintain historic property in accordance with the contract.

After the first 10-years contracts automatically extend annually unless either party elects to non-renew.

How does Mills Act work? (Part 2)

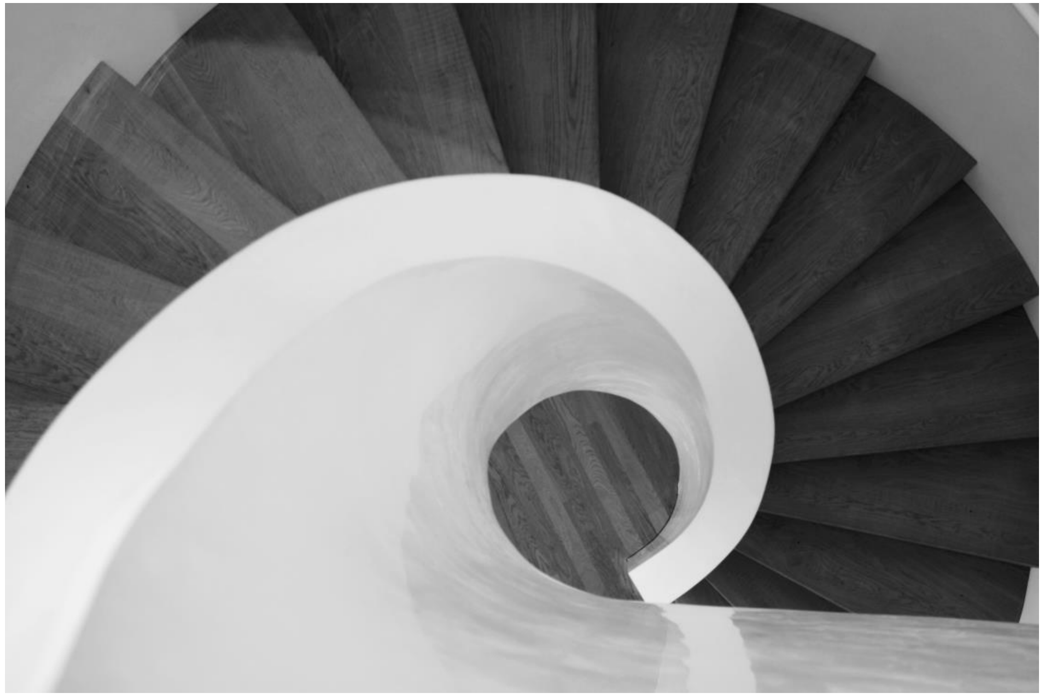


County controls application process and performs inspections on intervals of 1 to 5 years.

The property must be restored and maintained in a manner compatible with its architecture and use of original materials where feasible.

After the first 10-years contracts will automatically extend annually unless either party elects to non-renew.

How does Mills Act work? (Part 3)



Contract specifies what maintenance or rehabilitation must be done. The local agency should notify the Assessor of any change in the contract.

Mills Act requires annual assessment by the Assessor.

When do Mills Act values become effective?

- Once a contract is signed, accepted and recorded the property must be assessed on the ensuing lien date (January 1)

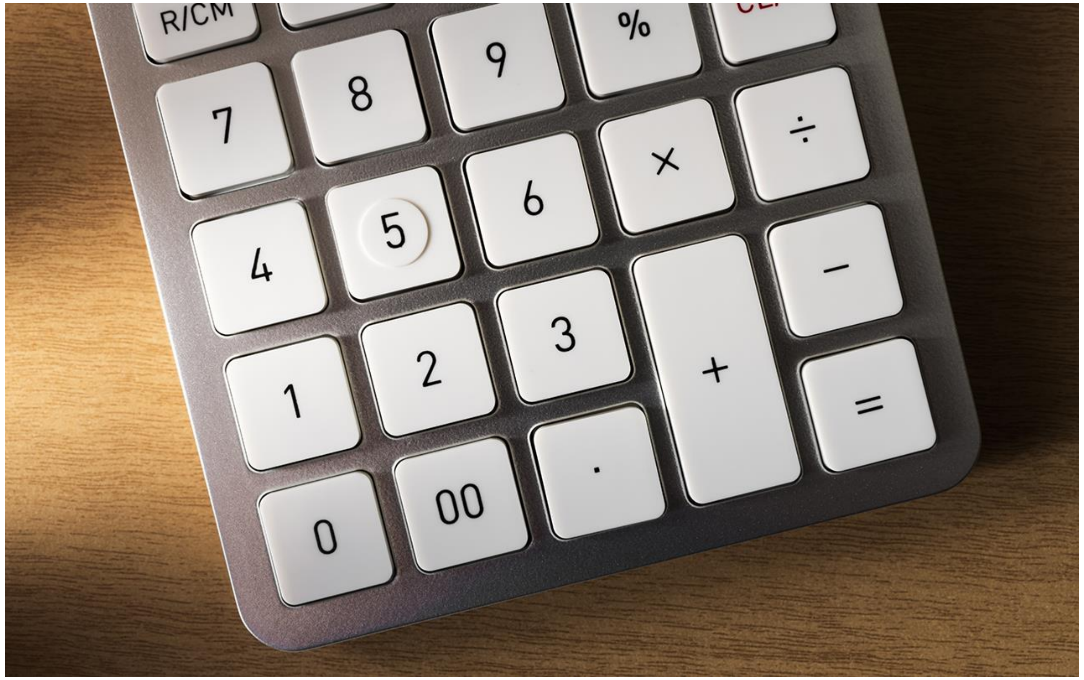
- For example, if the contract is recorded in August 2025, the property is valued for the lien date of January 1, 2026 for the tax period starting July 1, 2026 to June 30, 2027.

Cancellation and Non-Renewal of the Mills Act Contract

If the property is found to be in breach of its contract with the County or owner decides to end the contract, the Mills Act contract may be cancelled outright or placed under non-renewal status.

If the contract is cancelled the property owner will be required to pay a penalty equivalent to 12.5% of the current market value of the property.

Mills Act Mathematics



Annually, the Assessor's Office reviews:

1. **Proposition 13 Base Year Adjusted Value**

2. **Current Fair Market Value**

3. **Mills Act Actual or Potential Income Valuation**

Questions?

Thank You

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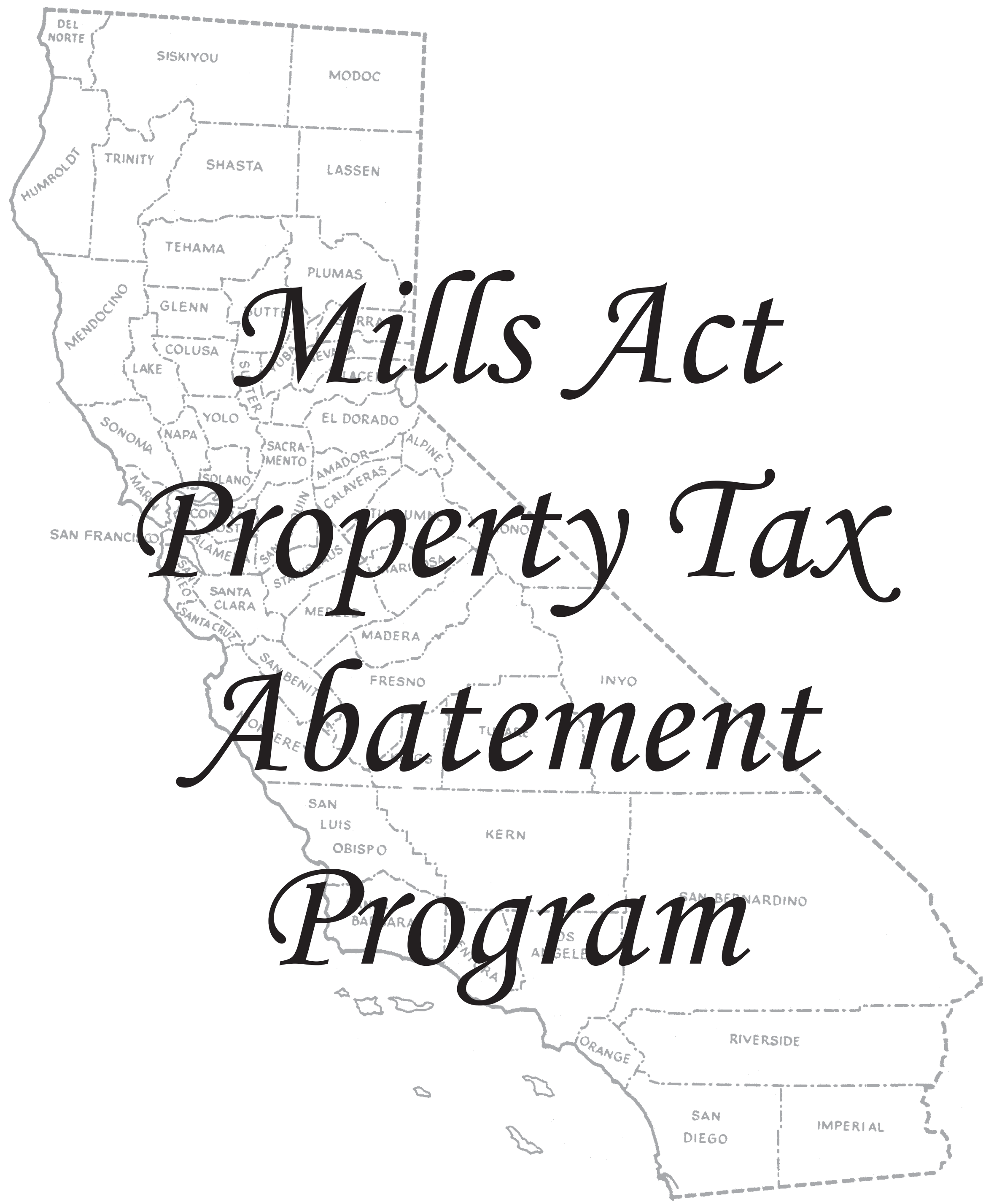
California Office of Historic Preservation
Department of Parks & Recreation

Technical Assistance Series

Mills Act Property Tax Abatement Program



1416 9th St,
Rm 1442-7
Sacramento CA 95814

PO Box 942896
Sacramento CA
94296-0001

phone:
(916) 653-6624
fax:
(916) 653-9824

email:
calshpo@ohp.parks.ca.gov
website:
ohp.parks.ca.gov

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CALIFORNIA STATE PARKS SINCE 1864 ™

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Mills Act Property Tax Abatement Program

Purpose of the Mills Act Program

Economic incentives foster the preservation of residential neighborhoods and the revitalization of downtown commercial districts. The Mills Act is the single most important economic incentive program in California for the restoration and preservation of qualified historic buildings by private property owners.

Enacted in 1972, the Mills Act legislation grants participating local governments (cities and counties) authority to enter into contracts with owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief.

Benefits to Local Governments

The Mills Act allows local governments to design preservation programs to accommodate specific community needs and priorities for rehabilitating entire neighborhoods, encouraging seismic safety programs, contributing to affordable housing, promoting heritage tourism, or fostering pride of ownership. Local governments have adopted the Mills Act because they recognize the economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past.

A formal agreement, generally known as a Mills Act or Historical Property Contract, is executed between the local government and the property owner for a minimum ten-year term. Contracts are automatically renewed each year and are transferred to new owners when the property is sold. Property owners agree to restore, maintain, and protect the property in accordance with specific historic preservation standards and conditions identified in the contract. Periodic inspections by city or county officials ensure proper maintenance of the property. Local authorities may impose penalties for breach of contract or failure to protect the historic property. The contract is binding to all owners during the contract period.

Benefits to Owners

Owners of historic buildings may qualify for property tax relief if they pledge to rehabilitate and maintain the historical and architectural character of their properties for at least a ten-year period. The Mills Act program is especially beneficial for recent buyers of historic properties and for current owners of historic buildings who have made major improvements to their properties.

Mills Act participants may realize substantial property tax savings of between 40% and 60% each year for newly improved or purchased older properties because valuations of Mills Act properties are determined by the Income Approach to Value rather than by the standard Market Approach to Value. The income approach, divided by a capitalization rate, determines the assessed value of the property. In general, the income of an owner-occupied property is based on comparable rents for similar properties in the area, while the income amount on a commercial property is based on actual rent received. Because rental values vary from area to area, actual property savings vary from county to county. In addition, as County Assessors are required to assess all properties annually, Mills Act properties may realize slight increases in property taxes each year.

Qualified Historic Property

A qualified historic property is a property listed on any federal, state, county, or city register, including the *National Register of Historic Places*, *California Register of Historical Resources*, California Historical Landmarks, State Points of Historical Interest, and locally designated landmarks. Owner-occupied family residences and income-producing commercial properties may qualify for the Mills Act program.

OHP's Role

OHP provides technical assistance and guidance to local governments and property owners. OHP maintains a current list of communities participating in the Mills Act program and copies of Mills Act ordinances, resolutions, and contracts that have been adopted. OHP does not participate in the negations of the agreement and is not a signatory to the contract.

For Additional Information

Contact the planning department of the city or county within which the historic property is located.

California's four largest cities (Los Angeles, San Diego, San Francisco, and San Jose) as well as more than 75 other city and county governments have instituted Mills Act programs. A list of communities participating in the Mills Act Program is available online at http://www.ohp.parks.ca.gov/default.asp?page_id=21412 .

For additional information on the Mills Act, please contact Maryln Lortie in the Office of Historic Preservation, PO Box 942896, Sacramento CA 94296-0001, (916) 653-8911, mlort@ohp.parks.ca.gov.

California State Codes Relating to Mills Act Program

California Government Code, Article 12, Sections 50280 - 50290

50280. Restriction of property use.
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 historic property.
"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. Required contract provision.
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. Fees.
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. Renewal.
(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. Cancellation.
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. Consultation with state commission.
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. Cancellation.

(a) If a contract is canceled under Section 50284, the owner shall pay a cancellation fee equal to 121/2 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. Action to enforce contract.
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. Eminent domain.
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. Annexation by city.
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. Consultation with state commission.
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, Article 1.9, Sections 439 – 439.4

439. Historical Property Restrictions; enforceably restricted property.
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. Historical Property; definitions.
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. Historical Property; valuation.
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 which 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 September 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, rounded to the nearest 1/4 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 September 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, rounded to the nearest 1/4 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. Historical Property; notice of nonrenewal.

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. If the property will be subject to a use for which this chapter provides a special restricted assessment, the value of the property shall be determined as if it were subject to the new restriction.

(2) Determine the value of the property by the capitalization of income method as provided in Section 439.2 and without regard to the fact that a notice of nonrenewal or cancellation has occurred.

(3) Subtract the value determined in paragraph (2) of this subdivision by capitalization of income from the full cash value determined in paragraph (1).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 439.2, discount the amount obtained in paragraph (3) for the number of years remaining until the termination of the period for which the property is enforceably restricted.

(5) Determine the value of the property by adding the value determined by the capitalization of income method as provided in paragraph (2) and the value obtained in paragraph (4).

(6) Apply the ratios prescribed in Section 401 to the value of the property determined in paragraph (5) to obtain its assessed value.

439.4. Historical Property; recordation.

No property shall be valued pursuant to this article unless an enforceable restriction meeting the requirements of Section 439 is signed, accepted and recorded on or before the lien date for the fiscal year in which the valuation would apply.

Exhibit G – Office of Historic Preservation

Mills Act Questions and Answers [Link: Mills Act Program]

Q: What is the Mills Act Program?
A: Economic incentives foster the preservation of residential neighborhoods and the revitalization of downtown commercial districts. The Mills Act is the single most important economic incentive program in California for the restoration and preservation of qualified historic buildings by private property owners. Enacted in 1972, the Mills Act legislation grants participating local governments (cities and counties) the authority to enter into contracts with owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief. California State Codes Relating to the Mills Act include the following:

- California Government Code, Article 12, Sections 50280 - 50290
- California Revenue and Taxation Code, Article 1.9, Sections 439 – 439.4

Q: My property or a property I am considering buying is already under a Mills Act contract. What does that mean to me as a property owner?
A: Mills Act contracts are for 10 years initially with automatic yearly extensions and stay with the property when transferred. Subsequent owners are bound by the contract and have the same rights and obligations as the original owner who entered into the contract. Because the local government and the property owner negotiate other specific terms of the contract, you need to contact your local government to determine the rights and obligations a Mills Act contract creates.

- Mills Act Contacts [Link: Mills Act Contacts]

Q: How are tax assessments determined for properties under the Mills Act?
A: The State Board of Equalization has provided guidelines for county assessors for use in assessing properties under the Mills Act.

- Board of Equalization Guidelines [Link: Guidelines for the Assessment of Enforceably Restricted Historical Property]

Q: Does my property qualify for the Mills Act Program?
A: Contact the County Historic Resource Planner list to find out what the local criteria are and what the process is for applying.

Q: How does the Mills Act benefit Local Governments?
A: The Mills Act allows local governments to design preservation programs to accommodate specific community needs and priorities for rehabilitating entire neighborhoods, encouraging seismic safety programs, contributing to affordable housing, promoting heritage tourism, or fostering pride of ownership. Local governments have adopted the Mills Act because they recognize the economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past.

A formal agreement, generally known as a Mills Act or Historical Property Contract, is executed between the local government and the property owner for a minimum ten-year term. Contracts are automatically renewed each year and are transferred to new owners when the property is sold. Property owners agree to restore, maintain, and protect the property in accordance with specific historic preservation standards and conditions identified in the contract. Periodic inspections by city or county officials ensure proper maintenance of the property. Local authorities may impose penalties for breach of contract or failure to protect the historic property. The contract is binding to all owners during the contract period.

Q: How does the Mills Act benefit Owners of Historical Properties?
A: Owners of historic buildings may qualify for property tax relief if they pledge to rehabilitate and maintain the historical and architectural character of their properties for at least a ten-year period. The Mills Act program is especially beneficial for recent buyers of historic properties and for current owners of historic buildings who have made major improvements to their properties.

Mills Act participants may realize substantial property tax savings each year for their properties because valuations of properties under a Mills Act contract are determined by the Income Approach to Value rather than by the standard Market Approach to Value. The income approach, divided by a capitalization rate, determines the assessed value of the property. In general, the income of a residential property is based on comparable rents for similar properties in the area, while the income amount on a commercial property is based on actual rent received. Because rental values vary from area to area, actual property savings vary around the state. It is important to note that because County Assessors are required to assess all properties annually, Mills Act properties may see slight fluctuation in property taxes each year.

Q: What is a Qualified Historical Property?
A: A qualified historical property, as defined in the state statute:

"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.

- (Added by Stats. 1985, Ch. 965, Sec. 2.)

Q: What is OHP's role in the Mills Act program?
A: OHP provides Mills Act information to local governments and uses information provided by local governments to maintain a list of communities participating in the Mills Act program as well as copies of Mills Act ordinances, resolutions, and contracts that have been adopted. OHP does not participate in the contract negotiations, is not a signatory to the contract and has no authority over the administration of the Mills Act program.

Q: Where can I get more information?
A: Contact the County of Santa Cruz Assessor's Office for answers to specific questions about the program in your community. Additional information is available from the Board of Equalization and California Government Code, Article 12, Sections 50280 - 50290.

RECORDING REQUESTED BY CITY OF CARMEL-BY-THE-SEA AND WHEN RECORDED MAIL TO Carmel City Hall Attn: Community Planning & Building P.O. Box CC Carmel-By-The-Sea, CA 93921	This space reserved for the Recorder's use only

CITY OF CARMEL-BY-THE-SEA
MILLS ACT HISTORIC PROPERTY PRESERVATION CONTRACT

THIS AGREEMENT is made and entered by and between the CITY OF CARMEL-BY-THE-SEA a municipal corporation (hereinafter referred to as "City"), and PROPERTY OWNER (hereinafter referred to as "Owner").

RECITALS

(i) California Government Code Section 50280, et seq. (known as the Mills Act) authorizes cities to enter into contracts with the owners of qualified historic properties to provide for their appropriate use, maintenance and restoration such that these historic properties retain their historic characteristics;

(ii) The Owner possesses fee title in and to that certain real property, together with associated structures and improvements thereon, located at ADDRESS (APN: 123-456-789), Carmel-By-The-Sea, California, (hereinafter referred to as the "Historic Property"). A legal description of the Historic Property is attached hereto, marked as **"Exhibit A"** and is incorporated herein by reference;

(iii) The property is identified as a historic resource on the City of Carmel-By-The-Sea's Historic Inventory and Register of Historic Resources and is further described in the DPR 523A Form attached hereto, marked as **"Exhibit B"** and is incorporated herein by reference;

(iv) City and Owner, for their mutual benefit, now desire to enter into this Agreement both to protect and preserve the characteristics of historical significance of the Historic Property, as it exists at the date of this contract and as described in the City's Register of Historic Resources and the National Register of Historic Places, 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.

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions contained herein, do hereby agree as follows:

1. INCORPORATION OF RECITALS. All recitals are incorporated into this Agreement.

2. EFFECTIVE DATE AND TERM. This Agreement shall be effective and commence on the date the Agreement is signed by the City, unless otherwise indicated by the County of Monterey, and shall remain in effect for a minimum term of ten (10) years thereafter.

3. AUTOMATIC RENEWAL. Each year, upon the anniversary of the effective date of this Agreement (hereinafter referred to as "annual renewal date"), one (1) year shall be added automatically to the term of this Agreement, unless timely notice of nonrenewal is given as provided in paragraph 4 of this Agreement. The total length of the contract shall not exceed twenty (20) years.

4. NOTICE OF NONRENEWAL. If City or Owner desires in any year not to renew this Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of this Agreement as follows: Owner must serve written notice of nonrenewal at least ninety (90) days prior to the annual renewal date; City must serve written notice of the nonrenewal at least sixty (60) days prior to the annual renewal date. If notice is not received, the Agreement shall automatically be renewed for another year. Upon receipt by Owner of a notice of nonrenewal from the City, Owner may make a written protest. At any time prior to the annual renewal date, City may withdraw its notice of nonrenewal.

5. EFFECT OF NOTICE OF NONRENEWAL. If either City or Owner serves timely notice of nonrenewal in any year, and this contract is not renewed, this Agreement shall remain in effect for the balance of the period remaining since the original execution or the last annual renewal date.

6. FEES. The City may require that the Owner(s) of the Historic Property pay a fee that shall not exceed the reasonable cost of providing services, such as inspections, pursuant to Government Code Section 50281.1 (Article 12 of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code), for which the fee is charged.

7. VALUATION OF PROPERTY. During the term of this Agreement, Owner is entitled to seek assessment of valuation of the Historic Property pursuant to the provisions of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

8. PRESERVATION OF PROPERTY. Owner shall preserve and maintain the characteristics of historical significance of the Historic Property and agrees to complete rehabilitation and/or maintenance activities as defined in the Rehabilitation/Restoration and Maintenance Plan attached as **"Exhibit C"**. Requests for revisions to the Maintenance and

Rehabilitation plan shall be reviewed by the Historic Resources Board prior to implementation. In addition, Owner shall comply with the terms of the City's Historic Preservation Ordinance (CMC 17.32). Owners shall not be permitted to further impede any view corridor with any new structure, including but not limited to walls, fences, or shrubbery, so as to prevent the viewing of the Historic Property from the public right-of-way.

9. RESTORATION OF PROPERTY. Owner shall, where necessary, restore and rehabilitate the Historic Property to conform to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, U. S. Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and the City of Carmel-by-the-Sea, all as amended.

10. INSPECTIONS. Owner shall allow periodic examinations, at least every five (5) years, with reasonable notice thereof, of the interior and exterior of the Historic Property by representatives of the County of Monterey Assessor and the City of Carmel-By-The-Sea as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement. The City will coordinate inspections by such other agencies that have jurisdiction and will keep them to the minimum necessary to determinate such compliance.

11. PROVISION OF INFORMATION. Owner shall furnish City with any and all information required by City, in order to determine the eligibility of the Historic Property, and that City deems necessary or advisable to determine compliance with the terms and provisions of this Agreement.

12. ANNUAL REPORT. Owner shall submit an annual report at least 90 days prior to each annual renewal date (October 1st) to the Department of Planning and Building specifying all work that has been done to maintain and preserve the historic resource over the preceding year in compliance with the approved maintenance plan.

13. CANCELLATION. The City has the right to cancel the contract if the owner allows the property to deteriorate to the point that it no longer meets the standards for a qualified historical property. The City also has the right to cancel this contract if the owner(s) breaches the provisions of paragraph's # 8, 9, 10 or 12 of this Agreement after the City has provided reasonable notice of any failure to comply with the agreement, and a public hearing. Notice of the hearing shall be mailed to the last known address of each owner of the property, with the notice conforming to the provisions of Government Code section 6061., If after notice and a hearing, the contract is cancelled, termination of the Agreement is immediate, and the owner shall pay a cancellation fee equal to 12.5 percent of the current fair market value of the property, as determined by the Monterey County Assessor as though the property were free of the contractual restriction. The cancellation fee shall be paid to the Assessor, at the time and in the manner that the Assessor shall prescribe. City's right to cancel this Agreement pursuant to this paragraph

shall in no way limit or restrict its rights or legal remedies arising from City's Historic Preservation Ordinance and Municipal Code.

14. ENFORCEMENT OF AGREEMENT. In lieu of and/or in addition to any provisions to cancel this Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement.

15. WAIVER. City does not waive any claim or default by Owner if City does not enforce or cancel this Agreement. All remedies at law or in equity, which are not otherwise provided for this Agreement or in City's regulations governing historic properties are available to City to pursue in the event there is a breach of this Agreement. No waiver by City of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

16. BINDING EFFECT OF AGREEMENT. Owner hereby subjects the Historic Property to the covenants, reservations and restrictions set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations, and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors and assigns in title or interest to the Historic Property. A successor in interest shall have the same rights and obligations under this Agreement as the original owner who executed the Agreement.
Each and every contract, deed or other instrument hereinafter executed, governing or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.
City and Owner hereby declare their understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that it restricts development of the Historic Property. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the cultural and historic characteristics and significance of the Historic Property for the benefit of the public and Owner.

17. 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, by personal delivery or United States mail, postage prepaid, addressed as follows:

City: Carmel-By-The-Sea
Community Planning & Building Department
Attn: Community Planning & Building Director
P.O. Box CC
Carmel-By-The-Sea, CA 93921

Owner: Name
Address
City, State, Zip

Notice to successors in interest to either party shall be sent to the appropriate address. In the case of future Owner(s) of the Historic Property, notice shall be sent to the address on file with the county property tax office in power at the time.

18. RECORDATION. No later than twenty (20) days after the parties execute and enter into this Agreement, the City shall cause this Agreement to be recorded in the Office of the County Recorder of the County of Monterey. From and after the time of the recordation, this Agreement shall impart a notice thereof to all persons as is afforded under state law.

19. STATE LAW. The Owner or agent of Owner shall provide written notice of this Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement.

20. GOVERNING LAW; VENUE. This Agreement shall be constructed and governed in accordance with the laws of the State of California. Should either party to this agreement bring legal action against the other, the case shall be handled in Monterey County, California and the party prevailing in such action shall be entitled to a reasonable attorney fee which shall be fixed by the judge hearing the case and such fee shall be included in the judgment together with all costs.

21. AMENDMENTS. This agreement may be amended in whole or in part, only by a written-recorded instrument executed by the parties hereto.

22. DESTRUCTION OF PROPERTY; EMINENT DOMAIN; CANCELLATION. If the Historic Property is destroyed by earthquake, fire, flood, or other natural disaster such that in the opinion of the City Building Official more than sixty percent (60%) of the original fabric of the structure must be preplaced, this Agreement shall be cancelled because the historic value of the structure will have been destroyed. If the Historic Property 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 City Council to frustrate the purpose of this Agreement, this Agreement shall be cancelled. No cancellation fee pursuant to Government Code Section 50286 shall be imposed if the Agreement is cancelled pursuant to this paragraph. Such Agreement shall be null and void for all purposes of determining the value of the property so acquired.

23. INDEMNIFICATION. Owner shall defend, indemnify, and hold harmless City and its elected officials, officers, agents and employees from any actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action

of any federal, state or local government agency, arising out of or incident to the direct or indirect use, operation, or maintenance of the Historic Property by Owner or any contractor, subcontractor, employee, agent, lessee, licensee, invitee, or any other person; (ii) Owner's activities in connection with the Historic Property; and (iii) any restriction on the use of development of the Historic Property, from application or enforcement of the City's Municipal Code, or from the enforcement of this Agreement. This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of the City, its elected officials, employees, and/or agents for all legal expenses and costs incurred by each of them. Owner's obligation to indemnify shall survive the termination, cancellation, or expiration of this Agreement and shall not be restricted to insurance proceeds, if any, received by City, its elected officials, employees, or agents.

24. SEVERABILITY. 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.

IN WITNESS THEREOF, the City and Owners have executed this Agreement on the day and year written above.

CITY OF CARMEL-BY-THE-SEA:

By: ___________________________ Date: _____________________

Name: Richard L. Rerig ("Chip")
Title: City Administrator

PROPERTY OWNER(S):

By: ______________________________ Date: ______________________

Name:
Title: Property Owner

By: ______________________________ Date: ______________________

Name:
Title: Property Owner

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B
DPR 523A FORM

EXHIBIT C
REHABILITATION/RESTORATION AND MAINTENANCE PLAN