

[Administrative Code—Historical Property (Mills Act) Contract Procedures.]

Ordinance amending Chapter 71 of the San Francisco Administrative Code regarding historical property (Mills Act) contract procedures to reflect amendments made to the San Francisco Charter to create the Historic Preservation Commission, expand the definition of "qualified historical property" to include properties listed on the California Register of Historical Resources, establish certain time lines for review of applications for historical property contracts, require Budget Analyst review of applications for historical property contracts, and making other clarifying amendments; and making findings, including environmental findings.

NOTE: Additions are *single-underline italics Times New Roman*;
deletions are ~~*strike through italics Times New Roman*~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strike through normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(A) Environmental Findings. The Planning Department has determined that the actions contemplated in this Ordinance are in compliance with the California Environmental Quality Act (California Public Resources Code section 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 091137 and is incorporated herein by reference.

(B) Historic Preservation Commission Review. On November 4, 2009, at a duly noticed public hearing, the Historic Preservation Commission reviewed the proposed amendments and recommended approval, with modifications, of these amendments by

1 Resolution No. 639 . This Resolution is on file with the Clerk of the Board of
2 Supervisors in File No. 091137 and is incorporated herein by reference.

3 Section 2. The San Francisco Administrative Code is hereby amended by amending
4 Chapter 71, to read as follows:

5 **CHAPTER 71: MILLS ACT CONTRACT PROCEDURES**

- 6 Sec. 71.1. Purpose.
- 7 Sec. 71.2. Qualified Historic Property.
- 8 Sec. 71.3. Application for Historical Property Contract.
- 9 Sec. 71.4. Approval Process.
- 10 Sec. 71.5. Terms of the Historical Property Contract.
- 11 Sec. 71.6. Fees.

12 **SEC. 71.1. PURPOSE.**

13 (a) ~~The purpose of this~~ This Chapter 71 ~~is to~~ implements the California Mills Act,
14 California Government Code Sections 50280 et seq. The Mills Act authorizes local
15 governments to enter into contracts with owners of private historical property who will
16 rehabilitate, restore, preserve, and maintain qualified historical property. As consideration for
17 the rehabilitation, restoration, preservation and maintenance of the qualified historical
18 property, the City and County of San Francisco may provide certain property tax reductions in
19 accordance with Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division
20 1 of the California Revenue and Taxation Code.

21 (b) San Francisco contains many historic buildings ~~which~~ that add to its character
22 and international reputation. Many of these buildings have not been adequately maintained,
23 may be structurally deficient, or may need rehabilitation. The costs of properly rehabilitating,
24 restoring and preserving historic buildings may be prohibitive for property owners.

1 Implementation of the Mills Act in San Francisco will make the benefits of the Mills Act
2 available to many property owners.

3 (c) The benefits of the Mills Act to the individual property owners must be balanced
4 with the cost to the City and County of San Francisco of providing the property tax reductions
5 set forth in the Mills Act as well as the historical value of individual buildings proposed for
6 historical property contracts, and the resultant property tax reductions, under the Mills Act.

7 **SEC. 71.2. QUALIFIED HISTORICAL PROPERTY.**

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

12 (a) Individually listed in the National Register of Historic Places or the California
13 Register of Historical Resources;

14 (b) Listed as a contributor to an historic district included on the National Register of
15 Historic Places or the California Register of Historical Resources;

16 (c) Designated as a City landmark pursuant to San Francisco Planning Code Article
17 10;

18 (d) Designated as contributory to an historic district designated pursuant to San
19 Francisco Planning Code Article 10; or

20 (e) Designated as ~~s~~Significant (Categories I or II) or ~~e~~Contributory (Categories III or
21 IV) ~~to a conservation district designated~~ pursuant to San Francisco Planning Code Article 11.

22 *Subsections 71.2 (b), (d), and (e) above shall not become effective until six (6) months after the*
23 *effective date of this Ordinance.*

24 **SEC. 71.3. APPLICATION FOR HISTORICAL PROPERTY CONTRACT.**

1 An owner, or an authorized agent of an owner, of a qualified historical property may
2 submit an application for a historical property contract to the Planning Department on forms
3 provided by the Planning Department. The property owner shall provide, at a minimum, the
4 address and location of the qualified historical property, evidence that the property is a
5 qualified historical property, the nature and cost of the rehabilitation, restoration or
6 preservation work to be conducted on the property, financial information necessary for the
7 Assessor-Recorder to conduct the valuation assessment under the Mills Act, including any
8 information regarding income generated by the qualified historical property, and a plan for
9 continued maintenance of the property. The Planning Department, the Historic Preservation
10 Commission, or the Assessor-Recorder may require any further information ~~it determines~~
11 necessary to make a recommendation on or conduct the valuation of the historical property
12 contract.

13 **SEC. 71.4. APPROVAL PROCESS.**

14 (a) ~~Review by the Assessor's Office~~ Assessor-Recorder Review. The Planning Department
15 shall refer the application for historical property contract to the ~~San Francisco~~ Assessor-
16 Recorder for ~~its~~ his or her review and recommendation. Within 60 days of the receipt of a complete
17 application, the ~~The~~ Assessor-Recorder shall provide to the Board of Supervisors and Historic
18 Preservation Commission a report an estimateing of the yearly property tax eaculations revenue to
19 the City under the proposed Mills Act contract valuation method and under the standard method
20 without the proposed Mills Act contract and showing the difference in property tax assessments
21 under the ~~different~~ two valuation methods ~~permitted by the California Mills Act so that the City can~~
22 ~~evaluate the difference between property tax which would normally be collected by the City and the~~
23 ~~property tax which would be collected pursuant to the historical property contract.~~ If the Assessor-
24 Recorder determines that the proposed rehabilitation includes substantial new construction or
25 a change of use, or the valuation is otherwise complex, he or she may extend this period for

1 up to an additional 60 days by providing written notice of the extension to the applicant. Such
2 notice shall state the basis for the extension.

3 ~~(b) Landmarks Board Review. The Landmarks Preservation Advisory Board shall hold a~~
4 ~~public hearing to review the application for the historical property contract and shall make its~~
5 ~~recommendation to the Planning Commission on the proposed rehabilitation, restoration or~~
6 ~~preservation work, the historical value of the qualified historical property and any proposed~~
7 ~~preservation restrictions and maintenance requirements.~~

8 ~~(c) Planning Commission Review. Upon receipt of the Landmarks Board's recommendation,~~
9 ~~the Planning Commission shall hold a public hearing to review the application for the historical~~
10 ~~property contract. Upon approval by the Planning Commission, the application shall be referred to the~~
11 ~~Board of Supervisors for its review and approval or disapproval. In the event the Planning Commission~~
12 ~~disapproves the historical property contract, such decision shall be final unless the property owner~~
13 ~~appeals such disapproval by filing an appeal with the Board of Supervisors within 10 days of final~~
14 ~~action by the Planning Commission.~~

15 (b) Historic Preservation Commission Review. The Historic Preservation Commission shall
16 have the authority to recommend approval, disapproval, or modification of historical property
17 contracts to the Board of Supervisors. For this purpose, the Historic Preservation
18 Commission shall hold a public hearing to review the application for the historical property contract
19 and make a recommendation regarding whether the Board of Supervisors should approve, disapprove,
20 or modify the historical property contract within 60 90 days of receipt of the Assessor-Recorder's
21 report. The recommendation of the Historic Preservation Commission may include recommendations
22 regarding the proposed rehabilitation, restoration, and preservation work, the historical value of the
23 qualified historical property, and any proposed preservation restrictions or maintenance requirements
24 to be included in the historical property contract. The Planning Department shall forward a the
25 recommendation of the Historic Preservation Commission to approve or modify an historical property

1 contract, with its application, to the Board of Supervisors. If the Historic Preservation Commission
2 recommends disapproval of the historical property contract, such decision shall be final unless the
3 property owner files an appeal with the Clerk of the Board of Supervisors within 10 days of the final
4 action of the Historic Preservation Commission. Failure of the Historic Preservation Commission to
5 act with the ~~60~~90-day time limit shall constitute a recommendation of approval disapproval for the
6 purposes of this subsection, and the Planning Department shall forward the application for the
7 historical property contract to the Board of Supervisors for its action notify the property owner
8 in writing of the Historic Preservation Commission's failure to act; provided, however, that the
9 Board of Supervisors by resolution may grant an extension of time to the Historic Preservation
10 Commission for its review.

11 (c) Budget Analyst Review. Upon receipt of the recommendation of the Historic
12 Preservation Commission or upon receipt of a timely appeal, the Clerk of the Board of Supervisors
13 shall forward the application and Assessor-Recorder's report to the Budget Analyst, who,
14 notwithstanding any other provision of this Code, shall prepare a report to the Board of Supervisors on
15 the fiscal impact of the proposed historical property contract.

16 (d) Board of Supervisors Decision. The Board of Supervisors shall conduct a public
17 hearing to review the ~~Planning~~ Historic Preservation Commission's recommendation, the
18 ~~information~~ Assessor-Recorder's report provided by the Assessor's Office, the Budget Analyst's report,
19 and any other information the Board requires in order to determine whether the City should
20 execute a historical property contract for a particular property. The Board of Supervisors shall
21 have full discretion to determine whether it is in the public interest to enter a Mills Act historical
22 property contract ~~with~~ regarding a particular qualified historical property. The Board of
23 Supervisors may approve, disapprove, or modify and approve the terms of the historical
24 property contract. Upon approval, the Board of Supervisors shall authorize the Director of
25 Planning and the Assessor-Recorder to execute the historical property contract.

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

2 (a) The historical property contract shall set forth the agreement between the City
3 and the property owner that as long as the property owner properly rehabilitates, restores,
4 preserves and maintains the qualified historical property as set forth in the contract, the City
5 shall comply with California Revenue and Taxation Code Article 1.9 (commencing with
6 Section 439) of Chapter 3 of Part 2 of Division 1, provided that the Assessor determines that
7 the specific provisions of the Revenue and Taxation Code are applicable to the property in
8 question. A historical property contract shall contain, at a minimum, the following provisions:

9 (1) The *initial* term of the contract, which shall be for a minimum *period* of 10 years;

10 (2) The owner's commitment and obligation to preserve, rehabilitate, restore and
11 maintain the property in accordance with the rules and regulations of the Office of Historic
12 Preservation of the California Department of Parks and Recreation and the United States
13 Secretary of the Interior's ~~s~~Standards for the Treatment of Historic Properties;

14 (3) Permission to conduct periodic examinations of the interior and exterior of the
15 qualified historical property by ~~the Landmarks Board~~, the Assessor-Recorder, the Department of
16 Building Inspection, ~~the Planning Department~~, the Office of Historic Preservation of the
17 California Department of Parks and Recreation and the State Board of Equalization as may be
18 necessary to determine the owner's compliance with the historical property contract;

19 (4) That the historical property contract is binding upon, and shall inure to the
20 benefit of, all successors in interest of the owner;

21 (5) An extension to the term of the contract so that one year is added automatically
22 to the initial term of the contract on the anniversary date of the contract or such other annual
23 date as specified in the contract unless notice of nonrenewal is given as provided in the Mills
24 Act and in the historical property contract;

1 (6) Agreement that the Board of Supervisors may cancel the contract, or seek
2 enforcement of the contract, when the Board determines, based upon the recommendation of
3 any one of the entities listed in Subsection (3) above, that the owner has breached the terms
4 of the contract. The City shall comply with the requirements of the Mills Act for enforcement
5 or cancellation of the historical property contract. Upon cancellation of the contract, the
6 property owner shall pay a cancellation fee of 12.5 percent of the full value of the property at
7 the time of cancellation (or such other amount authorized by the Mills Act), as determined by
8 the Assessor-Recorder without regard to any restriction on such property imposed by the
9 historical property contract; and

10 (7) The property owner's indemnification of the City for, and agreement to hold the
11 City harmless from, any claims arising from any use of the property.

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

16 **SEC. 71.6. FEES.**

17 The Planning Department shall determine the amount of a fee necessary to
18 compensate the City for processing and administering an application for a historical property
19 contract. The fee shall pay for the time and materials required to process the application,
20 based upon the estimated actual costs to perform the work, including the costs of the
21 Planning Department, the City Attorney, and the Assessor-Recorder, ~~and the Board of~~
22 ~~Supervisors~~. The City may also impose a separate fee, following approval of the historical
23 property contract, to pay for the actual costs of inspecting the qualified historical property and
24 enforcing the historical property contract. ~~Each department shall provide a written estimate of its~~
25 ~~costs to process the application. Such estimates shall be provided to the applicant, who shall pay the~~

1 ~~fee when submitting the application.~~ In the event that the costs of processing the application are
2 lower than the estimates, such differences shall be refunded to the applicant. In the event the
3 costs exceed the estimate, the Planning Department shall provide the applicant with a written
4 analysis of the additional fee necessary to complete the review of the application, and
5 applicant shall pay the additional amount prior to ~~any action approving~~ execution of the historical
6 property contract. Failure to pay any fees shall be grounds for cancelling the historical
7 property contract.

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9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA, City Attorney

11 By: _____
12 Marlena Byrne
13 Deputy City Attorney

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