



# 2022 MILLS ACT HISTORICAL PROPERTY CONTRACT EXECUTIVE SUMMARY

**HEARING DATE: OCTOBER 5, 2022**

**Re:** 2022 Mills Act Historical Property Contract  
**Staff Contact:** Gretel Gunther - 628-652-7607  
Gretel.Gunther@sfgov.org  
**Reviewed By:** Elizabeth Gordon-Jonckheer - 628-652-7352  
Elizabeth.Gordon-Jonckheer@sfgov.org

**Record No.:** 2022-004344MLS  
**Project Address:** 942-944 Fell Street  
**Zoning:** RM-1 - Residential- Mixed, Low Density  
**Height & Bulk:** 40-X Height and Bulk District  
**Historic District:** Alamo Square Historic District  
**Block/Lot:** 0823/017, 018  
**Project Sponsor:** Julie A. Chin  
**Property Owner:** Julie A. Chin  
522 Ortega Street  
San Francisco, CA 94122  
650-996-8033  
chinrents@gmail.com

## Property Description

942-944 Fell Street is a contributing building to the Article 10 Alamo Square Historic District. It is located on the north side of Fell Street between Pierce and Steiner Streets, Assessor's Block 0823, Lots 017 and 018. The subject property is located within an RM-1 (Residential- Mixed, Low Density) Zoning District and a 40-X Height and Bulk District. 942-944 Fell Street is a two-story over garage, wood-frame, two-unit residential building constructed in 1908. The subject property has had two condominiums since 1994. Both condominiums are currently tenant occupied. The subject property does not have any open complaints, enforcement cases, or violations.

## Project Description

This project is for a Mills Act Historical Property Contract for 942-944 Fell Street.

- The owner of the qualified historical property submitted an application for a historical property contract to the Department by the May 1, 2022, application deadline.
- The subject property is listed as a contributor to the Alamo Square Historic District and is thus a qualified historical property. The subject property is currently valued by the Assessor's Office at under \$3,000,000 and does not require an exemption to property value limits.
- The Assessor-Recorder estimated the property owner will receive \$11,687 in property tax savings in the first year as a result of the Mills Act Contract. Please refer to the attached Market Analysis and Income Approach Report and Preliminary Valuation spreadsheet prepared by the Assessor-Recorder for detailed information.
- As detailed in the application, the applicant proposes to rehabilitate and maintain the historic property. The proposed Rehabilitation Plan (Exhibit A) proposes to replace the roof, replace the garage door, replace and repair windows, repair and paint siding, repair the concrete walls, steps, and handrail, repair doors, repair detailing at the front façade including the soffits, window trim, cornice, brackets and entryway detailing, and repair the rear yard stairs. The estimated cost of the proposed rehabilitation work is \$308,100.
- The proposed Maintenance Plan (Exhibit B) proposes to inspect and make any necessary repairs to the exterior facades, roof, siding, windows and doors, foundation, and stairs on an annual basis. The annual estimated cost of maintenance work is \$8,655.
- No changes to the use of the property are proposed. The Department has determined that the proposed work, as detailed in Exhibits A and B, is in conformance with the *Secretary of Interior's Standards for Rehabilitation*. Please refer to the attached Rehabilitation and Maintenance Plans for a full description of the proposed work. Future rehabilitation and restoration work required under the Mills Act Contract will require a building permit and an Administrative Certificate of Appropriateness prior to the work being completed. An affidavit demonstrating compliance with the Rehabilitation and Maintenance Plans is required to be submitted to the Department on an annual basis.
- The Department reviews all Mills Act Contract applications on the merit of five *Priority Criteria Considerations* (Necessity, Investment, and Distinctiveness, Recently Designated City Landmark, Legacy Business). The subject property meets three of the five Priority Considerations: Necessity, Investment, and Distinctiveness. 942-944 Fell Street meets the Necessity criterion as it is in danger of deterioration and in need of substantial rehabilitation and restoration. The proposed rehabilitation will require significant associated costs to ensure the preservation of the subject property. 942-944 Fell Street meets the Investment criterion as the property owner will invest additional money towards the rehabilitation other than for routine maintenance. The current property owner has owned the subject property since 2014 and is committed to investing in the restoration, rehabilitation, and maintenance the property. The rehabilitation and restoration work will not require any tenants in the building to be temporarily displaced while the work is completed. Finally, 942-944 Fell Street meets the Distinctiveness criterion as

the proposed rehabilitation project will preserve and enhance the integrity of a contributor to the Alamo Square Historic District. The subject property does not meet the Recently Designated City Landmarks or the Legacy Business criteria. Alamo Square was designated an Article 10 landmark district in 1984 and therefore is not a recent landmark. A Legacy Business is not located at the subject property.

## Public/Neighborhood Input

The Department has received no inquiries from the public about the proposed project.

## Environmental Review Status

The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 31 categorical exemption as the proposed project is limited to maintenance, repair, stabilization, restoration, conservation, or reconstruction of the subject property in a manner consistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties. The Categorical Exemption for the Mills Act Contract application is attached in the attachments following the Executive Summary. Rehabilitation and restoration work required under the Mills Act Contract will require separate Categorical Exemption(s).

## Basis for Recommendation

942-944 Fell Street: The Department recommends APPROVAL of the Mills Act Historical Property Contract as it meets the provisions of Chapter 71 of the Administration Code and the Priority Considerations. The proposed rehabilitation and maintenance work conforms with the *Secretary of Interior’s Standards for Rehabilitation*. Granting the Mills Act historical property contract will help the property owner mitigate rehabilitation expenditures and adequately maintain the property in the future.

## Attachments

Maps and Context Photos  
Draft Resolution  
Draft Mills Act Contract  
Exhibits A & B: Draft Rehabilitation and Maintenance Plan  
Draft Mills Act Valuation provided by the Assessor-Recorder’s Office  
Categorical Exemption  
Pre-Approval Inspection Report  
Mills Act Application

## Mills Act Historical Property Contract Overview

### CHAPTER 71 – CALIFORNIA MILLS ACT

Ordinance No. 191-96 amended the San Francisco Administrative Code by adding Chapter 71 to implement the California Mills Act, California Government Code Sections 50280 et seq (the Mills Act). The Mills Act authorizes local governments to enter into contracts with owners of a qualified historical property who will rehabilitate, restore, preserve, and maintain the property. As consideration for the rehabilitation, restoration, preservation and maintenance of the qualified historical property, the City and County of San Francisco may provide certain property tax reductions in accordance with Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

San Francisco contains many historic buildings that add to its character and international reputation. Many of these buildings have not been adequately maintained, may be structurally deficient, or may need rehabilitation. The costs of properly rehabilitating, restoring and preserving historic buildings may be prohibitive for property owners. Implementation of the Mills Act in San Francisco will make the benefits of the Mills Act available to many property owners.

The benefits of the Mills Act to the individual property owners as well as the historical value of the individual buildings proposed for historical property contracts must be balanced with the cost to the City and County of San Francisco of providing the property tax reductions set forth in the Mills Act.

## Eligibility

### QUALIFIED HISTORICAL PROPERTY

An owner, or an authorized agent of the owner, of a qualified historical property may apply for a historical property contract. For purposes of Chapter 71, “qualified historical property” means privately owned property that is not exempt from property taxation and that either has submitted a complete application for listing or designation, or has been listed or designated in one of the following ways on or before December 31 of the year before the application is made:

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

### LIMITATIONS ON ELIGIBILITY

Eligibility for historical property contracts is limited to sites, buildings, or structures with an assessed valuation as of December 31 of the year before the application is made of \$3,000,000 or less for single-family dwellings and \$5,000,000 or less for multi-unit residential, commercial, or industrial buildings, unless the individual property is granted an exemption from those limitations by the Board of Supervisors. For the purposes of this section, “assessed valuation” shall not include any portion of the value of the property that is already exempt from payment of property taxes.

### **EXEMPTION FROM LIMITATIONS ON ELIGIBILITY**

The Historic Preservation Commission may recommend that the Board of Supervisors grant an exemption from the limitations imposed by this section upon finding that:

- (1) The site, building, or structure is a particularly significant resource; and
- (2) Granting the exemption will assist in the preservation of a site, building, or structure that would otherwise be in danger of demolition, substantial alteration, or disrepair.

Properties applying for an exemption must provide evidence that it meets the exemption criteria, including a Historic Structure Report (HSR) to substantiate the exceptional circumstances for granting the exemption.

The Board of Supervisors may approve a historical property contract not otherwise meeting the eligibility requirements if it finds that the property is a qualified historical property that meets exemption criteria listed above and is especially deserving of a contract due to the exceptional nature of the property and other special circumstances.

### **WHO MAY APPLY AND APPLICATION CONTENT**

An owner, or an authorized agent of an owner, of a qualified historical property may submit an application for a historical property contract to the Planning Department on forms provided by the Planning Department. The property owner is required to provide, at a minimum, the address and location of the qualified historical property, evidence that the property is a qualified historical property and meets the valuation requirements of Chapter 71, the nature and cost of the rehabilitation, restoration or preservation work to be conducted on the property, financial information necessary for the Assessor-Recorder to conduct the valuation assessment under the Mills Act, including any information regarding income generated by the qualified historical property, and a plan for continued maintenance of the property. The Planning Department, the Historic Preservation Commission, or the Assessor-Recorder may require any further information necessary to make a recommendation on or conduct the valuation of the historical property contract.

### **APPLICATION DEADLINES**

The annual application deadline for a historical property contract is May 1. Application for a historical property contract may be submitted to the Planning Department between January 1 and May 1 of each year.

## **Approval Process**

### **ASSESSOR-RECORDER REVIEW**

Once an application has been received and found to be complete, the Planning Department refers the application for a historical property contract to the Assessor-Recorder for review and recommendation. Within 60 days of the receipt of a complete application, the Assessor-Recorder is required to provide to the Board of Supervisors and Historic Preservation Commission a report estimating the yearly property tax revenue to the City under the proposed Mills Act contract valuation method and under the standard method without the proposed Mills Act contract, and showing the difference in property tax assessments under the two valuation methods. If the Assessor-Recorder determines that the proposed rehabilitation includes substantial new construction or a change of use, or the valuation is otherwise complex the Assessor-Recorder may extend this period for up to an additional 60 days by providing written notice of the extension to the applicant, the Historic Preservation Commission, and the Board of Supervisors. Such notice shall state the basis for the extension. If the

Assessor-Recorder fails to provide a report and recommendation within the time frames set forth here, the Historic Preservation Commission and Board of Supervisors may proceed with their actions without such report and recommendation.

#### **HISTORIC PRESERVATION COMMISSION REVIEW**

The Historic Preservation Commission has the authority to recommend approval, disapproval, or modification of historical property contracts to the Board of Supervisors. For this purpose, the Historic Preservation Commission is required to hold a public hearing to review the application for the historical property contract and make a recommendation regarding whether the Board of Supervisors should approve, disapprove, or modify the historical property contract within 90 days of receipt of the Assessor-Recorder's report or within 90 days of the date the report should have been provided if none is received. The recommendation of the Historic Preservation Commission may include recommendations regarding the proposed rehabilitation, restoration, and preservation work, the historical value of the qualified historical property, and any proposed preservation restrictions or maintenance requirements to be included in the historical property contract. The Planning Department forwards the application and the recommendation of the Historic Preservation Commission to approve or modify a historical property contract to the Board of Supervisors. Failure of the Historic Preservation Commission to act within the 90-day time limit constitutes a recommendation of disapproval, and the Planning Department is required to notify the property owner in writing of the Historic Preservation Commission's failure to act. If the Historic Preservation Commission recommends disapproval of the historical property contract, such decision is final unless the property owner files an appeal with the Clerk of the Board of Supervisors within 10 days of the final action of the Historic Preservation Commission or within 10 days of the Planning Department's notice of the Historic Preservation Commission's failure to act.

#### **BUDGET ANALYST REVIEW**

Upon receipt of the recommendation of the Historic Preservation Commission or upon receipt of a timely appeal, the Clerk of the Board of Supervisors is required to forward the application and Assessor-Recorder's report to the Budget Analyst, who, then prepares a report to the Board of Supervisors on the fiscal impact of the proposed historical property contract.

#### **BOARD OF SUPERVISORS DECISION**

The Board of Supervisors is required to conduct a public hearing to review the Historic Preservation Commission's recommendation, the Assessor-Recorder's report if provided, the Budget Analyst's report, and any other information the Board requires in order to determine whether the City should execute a historical property contract for a particular property. The Board of Supervisors has full discretion to determine whether it is in the public interest to enter into a historical property contract regarding a particular qualified historical property. The Board of Supervisors may approve, disapprove, or modify and approve the terms of the historical property contract. Upon approval, the Board of Supervisors authorizes the Director of Planning and the Assessor-Recorder to execute the historical property contract.

### **Terms of the Mills Act Historical Property Contract**

The historical property contract sets forth the agreement between the City and the property owner that as long as the property owner properly rehabilitates, restores, preserves and maintains the qualified historical property as set forth in the contract, the City shall comply with California Revenue and Taxation Code Article 1.9

(commencing with Section 439) of Chapter 3 of Part 2 of Division 1, provided that the specific provisions of the Revenue and Taxation Code are applicable to the property in question. A historical property contract is required to contain, at a minimum, the following provisions:

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

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

The Planning Department shall maintain a standard form "Historical Property Contract" containing all required provisions specified by this section and state law. Any modifications to the City's standard form contract made by the applicant shall be subject to approval by the City Attorney prior to consideration by the Historic Preservation Commission and the Board of Supervisors.

As noted above, the Department recommends APPROVAL of the Mills Act Historical Property Contract for 942-944 Street as it meets the provisions of Chapter 71 of the Administration Code and the Priority Considerations. The proposed rehabilitation and maintenance work conforms with the *Secretary of Interior's Standards for Rehabilitation*. Granting the Mills Act historical property contract will help the property owner mitigate rehabilitation expenditures and adequately maintain the property in the future.