

1 [Mills Act Contract Procedures.]

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3 **Draft ordinance amending Administrative Code Section 71, (Mills Act Contract**
4 **Procedures) to codify recent Charter changes related to the Historic Preservation**
5 **Commission, establish process deadlines for Mills Act applications, require Budget**
6 **Analyst review, clarify the definition of qualified historical property, and make technical**
7 **changes.**

8 Note: Additions are *single-underline italics Times New Roman*;
9 deletions are *strikethrough italics Times New Roman*.
10 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

12 Section 1. The San Francisco Administrative Code is hereby amended by amending
13 Section 71.1, to read as follows:

14 **SEC. 71.1. PURPOSE.**

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

23 (b) San Francisco contains many historic buildings which add to its character and
24 international reputation. Many of these buildings have not been adequately maintained, may
25 be structurally deficient, or may need rehabilitation. The costs of properly rehabilitating,

1 restoring and preserving historic buildings may be prohibitive for property owners.
2 Implementation of the Mills Act in San Francisco will make the benefits of the Mills Act
3 available to many property owners.

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

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9 Section 2. The San Francisco Administrative Code is hereby amended by amending
10 Section 71.2, to read as follows:

11 **SEC. 71.2. QUALIFIED HISTORIC PROPERTY.**

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

16 (a) Individually listed in the National Register of Historic Places;

17 (b) Listed as a contributor to an historic district included on the National Register of
18 Historic Places;

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

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

22 (e) Designated as significant (Categories I or II) or contributory (Categories III or IV) ~~to~~
23 ~~a conservation district~~ designated pursuant to San Francisco Planning Code Article 11.

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

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2 Section 3. The San Francisco Administrative Code is hereby amended by amending
3 Section 71.4, to read as follows:

4 **SEC. 71.4. APPROVAL PROCESS.**

5 (a) ~~Review by the Assessor's Office.~~ Assessor-Recorder Review. The Planning Department
6 shall refer the application for historical property contract to the ~~San Francisco Assessor~~ Assessor-
7 Recorder for ~~its~~ his or her review and recommendation. ~~The Assessor~~ Within 60 days of the receipt
8 of a complete application, the Assessor-Recorder shall provide to the Board of Supervisors and
9 Historic Preservation Commission an estimate of the property tax calculations and the difference
10 in property tax assessments under the different valuation methods permitted by the ~~California~~
11 Mills Act so that the City can evaluate the difference between property tax which would
12 ~~normally~~ be collected by the City if the project were to occur without the historical property contract
13 and the property tax which would be collected pursuant to the historical property contract.

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

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

1 (b) Historic Preservation Commission Review. The Historic Preservation Commission shall
2 hold a public hearing to review the application for the historical property contract within 60 days of
3 the Assessor-Recorder providing an estimate, and shall make its recommendation to the Board of
4 Supervisors on the proposed rehabilitation, restoration or preservation work, the historical value of the
5 qualified historical property and any proposed preservation restrictions or maintenance requirements.
6 Upon a decision to recommend or not recommend approval, the application shall be referred to the
7 Clerk of the Board of Supervisors.

8 (c) Budget Analyst Review. Upon receipt of the recommendation from the Historic Preservation
9 Commission, the Clerk shall forward the application and Assessor-Recorder's estimate to the Budget
10 Analyst. Notwithstanding any other provision of this Code, The Budget Analyst shall prepare a report
11 to the Board of Supervisors on the fiscal impact of the proposed contract.

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

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23 Section 4. The San Francisco Administrative Code is hereby amended by amending
24 Section 71.5, to read as follows:

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

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

9 (1) The term of the contract, which shall be ~~for a minimum of~~ at least 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 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,~~ Assessor-Recorder, the Historic
16 Preservation Commission, the Planning Department, the Department of Building Inspection, the
17 Office of Historic Preservation of the California Department of Parks and Recreation and the
18 State Board of Equalization as may be necessary to determine the owner's compliance with
19 the historical property contract;

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

22 (5) An extension to the term of the contract so that one year is added automatically to
23 the initial term of the contract on the anniversary date of the contract or such other annual
24 date as specified in the contract unless notice of nonrenewal is given as provided in the Mills
25 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 or
5 cancellation of the historical property contract. Upon cancellation of the contract, the property
6 owner shall pay a cancellation fee of 12.5 percent of the full value of the property at the time
7 of cancellation (or such other amount authorized by the Mills Act), as determined by the
8 ~~Assessor~~ 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 City
11 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 provisions
13 of the ~~California~~ Mills Act, including amendments thereto. The Mills Act, as amended from
14 time to time, shall apply to the historical property contract process and shall be deemed
15 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, the ~~Assessor~~ 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
25 its costs to process the application. Such estimates shall be provided to the applicant, who

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

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

11 By: _____
12 ATTORNEY'S NAME
13 Deputy City Attorney
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