City of SAN MARINO CALIFORNIA

Mills Act Property Tax Abatement Program Guidelines and Application

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Introduction

The Mills Act property tax abatement program is for property owners who are actively rehabilitating their historic properties or have a plan to do so that is compliant with the *Secretary of the Interior's Standards for Rehabilitation* and the California Historical Building Code. This guide will assist owners in determining if they qualify for the Mills Act program and will instruct qualified owners on how to complete an application.

For applicants who are just starting their rehabilitation project, all work shall be completed within the first 10 years of the contract. Recently completed work (within the 12 months prior to application submittal) may be allowable as part of the rehabilitation/restoration/maintenance work plan. Owners who enter into a contract and do not rehabilitate or maintain the property are subject to the City cancelling the contract and the Los Angeles County Assessor collecting a penalty fee of 12.5% of the current fair market value of the property.

Mills Act applications are due by June 30 each year. Properties that are designated as historical resources at the local, state, and/or national levels are eligible for Mills Act contracts. Applicants who own properties not yet designated at the local, state, and/or national level may submit a City of San Marino Landmark application concurrent with their Mills Act application.

NOTE: Applicants are responsible for understanding all of the information contained in the Guidelines and Appendices. Please review the Application Requirements Check-Off List to ensure that you are submitting all of the required documents for the application.

If you have any questions, please contact:

Isidro Figueroa, Community Development Director
City of San Marino
2200 Huntington Drive, First Floor
San Marino, CA 91108

ifigueroa@cityofsanmarino.org
626-300-0710

Part 1. Mills Act Program Overview

The Mills Act (California Government Code, Article 12, Sections 50280-50290) is a California State law enacted in 1972 to encourage historic preservation. It grants local governments the authority to enter into contracts with owners of historic properties who agree to maintain and rehabilitate their properties in exchange for a reduction in local property taxes.

The Mills Act is not intended to be a subsidy for those seeking to remodel their property, or as a tool to assist with mortgage payments or other expenses. The purpose of the program is for the funds saved in property taxes to be used for the exterior rehabilitation and maintenance of the historic property. All work on the properties must conform to the *Secretary of the Interior's Standards for Rehabilitation* (See Appendix A) and the California Historical Building Code. The City will confirm owner compliance with the terms of their Mills Act Contract through annual reporting and inspection.

A Mills Act contract is executed for an initial term of 10 years. At the end of each year, the term is automatically extended by one year, thereby maintaining the 10-year term in perpetuity. If a property owner wishes to terminate the agreement, the contract would conclude at the end of the current 10-year period. If the contract is cancelled before the end of the 10-year term, the property owner is assessed a penalty fee (12.5% of the current fair market value of the property).

Participation in the Mills Act program is voluntary and is restricted to owners of designated historic properties.

This Application Guide is a summary of the Mills Act Historical Property Contract Program's features. The complete details of the program are described in the legal texts of California Government Code Sections 50280-50290 and California Revenue and Taxation Code Article 1.9, Sections 439-439.4 (See Appendix B).

Eligibility

What Properties are Eligible?
Qualified historical properties under the Mills Act program include privately owned properties that are not exempt from property taxation. In order to participate in the Mills Act program, qualifying properties must be designated under at least one of the following registration programs, either individually or as a contributor to a historic district:

- City of San Marino Historic Landmark/Historic District Contributor
- National Register of Historic Places
- California Register of Historical Resources

Applicants who own properties not yet designated may submit a City of San Marino Historic Landmark application concurrent with their Mills Act application. See San Marino Preservation Ordinance, for information on the local designation process.

What Properties are Ineligible?
Properties that are not currently designated in the programs listed above are not eligible for a Mills Act contract, as are properties that do not pay taxes or are delinquent in the payment of taxes. Properties with outstanding code violations and/or correction notices issued by any divisions within the City of San Marino are also ineligible for Mills Act. All code violations and expired permits must be corrected before an application will be accepted. It is also important that the person/entity submitting the application retains ownership through contract recording. If not, the contract will be nullified by the City and County since the ownership on the recordation date will not match the ownership listed in the contract.

Owners of existing Mills Act contracts that are not fully in compliance may not submit new applications for additional properties.

Terms of the Contract

Duration of Contract
The Mills Act contract is for a minimum term of 10 years. It automatically renews each year on its anniversary date, and a new 10-year term becomes effective. The contract runs in perpetuity with the land, and subsequent owners are bound by the terms and conditions of the contract.

Renewal
The City or property owner may choose not to renew a Mills Act contract for any reason. Unless the notice of nonrenewal is served by the owner at least 90 days prior to the renewal date or by the City Manager at least 60 days prior to the renewal date, one year shall automatically be added to the term of the contract.

Upon receipt by the owner of a notice from the City Manager of nonrenewal, the owner may make a written protest of the notice of nonrenewal. If either party 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 of the last renewal of the contract. Upon execution of the nonrenewal, the owner's Mills Act tax benefit reduces gradually on an annual basis. By year 10, the property owner will be paying the same tax they would have paid before entering the Mills Act contract.

Alterations or Additions
Any work performed on the property (exterior, public interiors, and grounds) must conform to the *Secretary of the Interior's Standards for Rehabilitation* and the California Historical Building

Code. City planning staff shall review any proposed work for conformance with the *Standards* before work begins, and all necessary permits shall be obtained.

Breach of Contract
If the property owner is found to be in breach of contract, the City may cancel the contract whereupon the County Auditor-Controller collects a cancellation fee of 12.5% of the fair market value of the property as determined by the County Assessor.

Potential Property Tax Savings
A property owner has the potential to receive tax savings because their property taxes will be reassessed by the County Assessor using a prescribed Income Approach to Value instead of the standard Market Approach to Value. The income-based method, divided by a capitalized rate, determines the assessed value of the property. Generally, the income of an owner-occupied property (residence) is based on comparable rents to similar properties in the area, while the income amount on a commercial property is based on actual rent received.

Mills Act participants *may* receive substantial property tax savings of between 40% and 60%. However, savings can vary widely. All calculations are conducted by the County Assessor after contracts are signed. There is no guarantee of tax savings under a Mills Act contract, and the amount of property taxes under the program is unknown until after contracts are signed.

NOTE: Property owners with comparatively low property taxes, such as those benefitting from Proposition 13 limits on assessed value change over time, will not likely benefit from a Mills Act contract because the assessed value under the Mills Act will likely be higher than the current base-year value of the property. In general, owners who benefit most from a Mills Act contract are those who have acquired their properties in the last 10 years.

Transfer of Ownership
A Mills Act contract is attached to the property, and subsequent owners are bound by the terms and conditions of the contract. Subsequent owners are obligated to complete any work identified in the contract and perform required maintenance. It is incumbent upon the seller of a Mills Act property to disclose this fact to potential buyers.

Contract Administration

Contract Recording and Property Reassessment
If approved, the Mills Act contract for a property is submitted by the City to the County Assessor's Office for recordation on or before December 31. The recorded contract is received by the City in late January or early February, and a copy is mailed to the owner.

The County Assessor will reassess the property by June 30 of the year following the contract recording. The Assessor may request an Income and Expense Form from the property owner. The

new assessment will be reflected on the subsequent property tax bill issued. There are no retroactive provisions.

State Notification
Within six months of recordation of the Mills Act contract, property owners are required to provide written notice to the State Office of Historic Preservation, stating that their property has entered into a Mills Act Historical Property Contract with the City of San Marino. Notification is submitted to:

Shannon Lauchner
Mills Act/CLG Coordinator
State Historian II
shannon.lauchner@parks.ca.gov
916-445-7013

Inspections and Monitoring
The City conducts both pre-contract and annual inspections of the property to ensure compliance with the terms of the Mills Act contract. Pre-contract inspections are typically conducted between July and August following June 30 submittals of Mills Act contract applications. Based on the pre-contract inspection, Conditions of Approval may be required to address any conditions that do not conform to the *Secretary of the Interior's Standards for Rehabilitation.*

Annual inspections are conducted by City staff, or a qualified historic preservation consultant contracted by the City, to monitor properties for compliance with the terms of the contract, including progress of the specified rehabilitation and/or maintenance. Inspections will primarily be conducted from the sidewalk and will evaluate everything that is visible from the public right-of-way. In certain circumstances where the Mills Act contract includes significant, publically accessible interior spaces (i.e. a historic hotel lobby or restaurant), interiors will be inspected as well. Inspections are ongoing for the life of the contract and will continue after all work specified in the agreement has been completed as long as the contract agreement is in effect.

Following the inspection, Mills Act property owners will receive a letter by mail, notifying them of the inspection results and explaining whether or not they are in compliance. If at any point during the term of the contract the property is deemed noncompliant, the owner will be given a reasonable deadline to make the improvements, with an extension granted if the owner has shown good faith efforts to make the improvements.

Rehabilitation/Restoration/Maintenance Work Plan

All Mills Act contracts require a minimum 10-year work plan indicating how the tax savings will be reinvested into the rehabilitation, restoration, and/or ongoing maintenance of the property. **The work plan does not serve as an official permit or approval of each individual item.** The property owner is responsible for obtaining all necessary approvals and permits for work plan items prior

to making any changes to the property and completing the work. Any work performed to the property's exterior, or to specified interior features and spaces, must conform to the *Secretary of the Interior's Standards for Rehabilitation* and the California Historical Building Code.

Allowable work plan items are typically restricted to work on the exterior of the property, systems of the building (such as plumbing, seismic reinforcement, or electrical work), and visible property grounds, including landscaping and hardscaping. Interior work may be included for significant public interiors (i.e. a hotel lobby or historic restaurant interior) if the restoration is based on historical documentation.

Modernization, remodels, and/or construction of new elements may not be included in your work plan. Specific items that are not eligible include (but are not limited to): new additions; *any* interior work on non-publically accessible, significant interior spaces; installation of a security system; or a swimming pool or other rear yard landscaping.

Maintenance and rehabilitation work completed within the 12 months prior to submittal of the Mills Act application may be included as part of the work plan (including cost estimates), if the City finds that it complies with the *Secretary of the Interior's Standards for Rehabilitation* and the California Historical Building Code.

The items below provide guidance regarding the types of work that may be included in a 10-year work plan.

<u>Building Systems</u>

- Though not readily visible aspects of a historic property, building systems are crucial to ensuring its stability and future preservation. Work items like seismic reinforcement, electrical and mechanical upgrades, plumbing work, and drainage/flood prevention may be included in work plans.
- All systems work must conform to the *Standards* and avoid visible changes to character-defining features (e.g., foundation bolting and roof ties for seismic work should be at the interior wherever possible).

<u>Windows and Doors</u>

- The replacement of original windows is a common alteration that can greatly diminish the integrity and historic character of a building. Incompatible replacement windows should be replaced with period-appropriate windows (new or salvaged) that replicate the materials, size, shape, details, and other qualities of the original windows. Windows that are highly visible from the public right-of-way should be prioritized over less visible windows (such as those at the rear of the property, or facing an alley). Dual glazing and simulated divided lights are typically not allowable at highly visible façades, as they are not historically appropriate. They may be allowed at less visible façades; the City will determine acceptability on a case-by-case basis.

- The replacement/removal of any inappropriate window screens or awnings that are visible from the public right-of-way should be included in a work plan.
- The front door is another significant element of the primary façade. When the original door is present, it should be restored or treated for its ongoing preservation. Replacement of an inappropriate front door with a period-appropriate door should be prioritized in a work plan.

Roofs

- Historic roofing material should be preserved wherever possible. If replacement is necessary, new material should resemble the historic material as closely as possible. This includes configuration, size, pattern, color, texture, etc.
- Minor repair of roof shingles, gutters, flashing maintenance, and investigating locations of leaks are also valid work plan items.

Exterior Cladding and Stucco

- The overall condition of historic cladding should be evaluated on a regular basis. When removing deteriorated boards or shingles, care should be taken to not damage adjacent materials. Installation of new cladding materials should replicate historic materials as closely as possible. Painted cladding should be maintained to ensure protection/durability of the cladding material. Sandblasting and other abrasive treatment methods should never be used in treating historic wood or brick elements.
- Stucco finishes should be restored to the historical type; heavily textured, sprayed on or "lace" patterned stucco is not historically appropriate in most cases.

Garages and Ancillary Buildings

- Historic garages and other historic ancillary buildings are character-defining features of a property and should be preserved whenever possible.
- Replacement garage doors should be based on the style of the original doors or on similar period garage doors, with guidance from City staff. This includes design, material, and configuration.

Fencing and Garden Walls

- The installation of new fences and perimeter walls in the front yard is generally discouraged since they interfere with the connection between the neighborhood and the historic property. In cases where it is appropriate, the fence design should complement the property and the surrounding neighborhood. Materials and finishes used on new fencing should be compatible with the property.

Landscape

Landscape design and maintenance have a significant impact on the appearance of a property. In addition to the below Maintenance Standards that all properties must adhere to, the following are examples of items that may be addressed in the work plan:

- Front and side yard landscaping
- Driveways and ribbon strips
- Front walkways (leading to the front door or driveway)
- Front or side porches or patios
- Trees or shrubs of significant age or size
- Planters
- Light posts

Historic landscape features should be preserved and maintained. Deteriorated surfaces should be repaired, and replacement material should replicate the original as closely as possible.

Maintenance Standards

In addition to the items listed in the work plan, all Mills Act properties are required to be adequately maintained. All current building and zoning codes will be enforced.
The following are examples of conditions that are not permissible:

- Dilapidated buildings or features such as fences, roofs, doors, walls, and windows
- Abandoned or discarded objects, equipment, or materials such as automobiles, automobile parts, furniture, appliances, containers, lumber, or similar items stored outdoors but within property lines
- Stagnant water or open excavations
- Any device, decoration, or structure which is unsightly by reason of its height, condition, or location
- Peeling exterior paint
- Unremoved/uncovered graffiti
- Overgrown or dead landscaping, exposed bald areas within yards or grounds, and broken walkways or driveways that could cause injury
- Yards or porches cluttered with items that detract from the appearance of the property
- Trash cans that are not stored out of view of the public right-of-way

Frequently Asked Questions (FAQ)

Is there a fee for the Mills Act Program in San Marino?
City Fee shall be pursuant to Council Resolution. If the contract is approved by the City Council, a recording fee payable to the Los Angeles County Recorder to record the final executed contract will be required.

How does the City decide which applicants are awarded a Mills Act Contract?
Currently, there is no limit on the number of contracts the City will accept each year, nor a limit on the estimated unrealized property tax revenue lost per year. However, the City Council reserves the right to establish these limits at any time. Contracts are awarded based on the thoroughness of the application, the merits of the work plan, and the preservation needs of the property. Properties threatened by deterioration or conflicting zoning regulations are prioritized, as are projects that will maintain affordable housing. The City Council may waive the annual contract limitation in any specific case or may make a contract effective the following year.

How are my property tax savings calculated if I am awarded a Mills Act Contract?
Instead of basing the property tax on the purchase price (Proposition 13, Base Year Value), the County Assessor reassesses the property on its ability (or potential ability) to produce income (Income Approach). The Income Approach for an owner-occupied property is based on its potential rental value. For a more detailed explanation of how your property tax will be calculated and an estimate of how much you may save under the Mills Act Program, you may call the Mills Act contact at the Los Angeles County Assessor's East District Office (South El Monte) at (626) 527-2158.

What type of property is likely to benefit?
The Mills Act program does not guarantee a reduction amount for any property, but generally speaking, a property purchased after 2005 is most likely to receive the highest reduction. A property purchased prior to 1978 (Proposition 13) is unlikely to receive a tax deduction. Properties that have more recently sold (i.e. within the last 10 years) are likely to see greater tax reductions.

When would I receive my property tax reduction?
Mills Acts contracts are awarded and recorded by the end of the calendar year. Tax savings are seen on the following year's tax bill. For example, if you were approved for a Mills Act contract in 2020, your contract would be recorded in December of 2020 and you would see your tax savings on your 2021/2022 tax bill.

Can I renovate my kitchen or bathroom as part of my Mills Act contract?
Interiors are mostly prohibited from inclusion in Mills Act work plans and are not regulated by the City. Exceptions to this may include the rehabilitation/maintain ace of significant interior spaces that are publically accessible (i.e. a historic hotel lobby), based on historical documentation. In most cases, you may renovate the interior of your property however you wish (as long as it does not affect the exterior appearance of your designated property and any necessary permits are obtained), but you may not include the cost as part of your Mills Act work plan.

What happens if maintenance/rehabilitation work items end up costing more or less than the original cost estimates in my Work Plan?

The work items as completed do not need to exactly match the cost estimates in the work plan, as the cost estimates are meant to provide the City with a general idea of the costs involved in the proposed maintenance and rehabilitation work.

What happens if I sell my Mills Act property?
The Mills Act contract will always remain with the property, and the new owner is obligated to meet the contract requirements. The new owner will automatically assume the reduced tax rate and all the obligations of owning a Mills Act property. It is important that sellers of Mills Act properties disclose the Mills Act requirements to the new property owners, as well as any unfinished maintenance or rehabilitation items from their 10-year work plan, as the new owners will be required to comply with the same requirements of the program.

What happens if I do not fulfill my obligation under the Mills Act?
The City strives to work with property owners to stay in compliance with their Mills Act contracts and to get back into compliance if any items require attention. To that end, the City may grant extensions to particular work items if the owner demonstrates good faith efforts to complete them. If a property continues to remain out of the compliance after a series of attempts by City staff to remedy the situation, State law allows the City to cancel the owner's Mills Act contract and fine the owner 12.5% of the fair market value of the property.

Appendix A: *The Secretary of the Interior's Standards for Rehabilitation*

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Appendix B: Relevant State Codes

California Government Code, Article 12, Sections 50280 - 50290
(Article 12 added by Stats. 1972, Ch. 1442)

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.
(Amended by Stats. 1985, Ch. 965, Sec. 1.7.)

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

50281. Required contract provisions.

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 an inspection of the interior and exterior of the premises by the city, county, or city and county, prior to a new agreement, and every five years thereafter, 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.
(Amended by Stats. 2013, Ch. 210, Sec. 6.5. (SB 184) Effective January 1, 2014.)

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 that shall not exceed the reasonable cost of providing the service pursuant to this article for which the fee is charged. *(Amended by Stats. 2011, Ch. 278, Sec. 2. (AB 654) Effective January 1, 2012.)*

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. Each contract shall also provide that after five years, and every five years thereafter, the city, county, or city and county shall inspect the interior and exterior of the premises to determine the owner's continued compliance with the contract. 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.

(Amended by Stats. 2011, Ch. 278, Sec. 3. (AB 654) Effective January 1, 2012.)

50284. Cancellation.

If the legislative body 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 shall do one of the following:

(a) Cancel the contract by following the procedures specified in Sections 50285 and 50286.
(b) 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.

(Amended by Stats. 2011, Ch. 278, Sec. 4. (AB 654) Effective January 1, 2012.)

50285. Cancellation.

No contract shall be cancelled 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.

(Added by Stats. 1972, Ch. 1442.)

50286. Cancellation.

(a) If a contract is cancelled under Section 50284, the owner shall pay a cancellation fee equal to $12^{1}/_{2}$ 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 law, revenue received by a school district pursuant to this section shall be considered property tax revenue for the purposes of Section 42238.02 of the Education Code, as implemented pursuant to Section 42238.03 of the Education Code, and revenue received by a county superintendent of schools pursuant to this section shall be considered property tax revenue for purposes of Article 4 (commencing with Section 2570) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code.

(Amended by Stats. 2013, Ch. 47, Sec. 109. (AB 97) Effective July 1, 2013.)

50287. Action to enforce contract.

As an alternative to cancellation of the contract for breach of any condition, a landowner that is a party to the contract 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.

(Amended by Stats. 2011, Ch. 278, Sec. 5. (AB 654) Effective January 1, 2012.)

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 cancelled 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.
(Amended by Stats. 1974, Ch. 544.)

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.
(Added by Stats. 1972, Ch. 1442.)

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.
(Amended by Stats. 1985, Ch. 965, Sec. 8.)

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.

Part 2. Application

Application Process and Schedule

The Mills Act Contract Program is administered cooperatively between the City of San Marino, the Los Angeles County Office of the Assessor and the State Office of Historic Preservation. The following outlines the general timeframe and important deadlines for the application process.

June 30	Deadline to submit Mills Act application to the City.
July-August	Once applications are deemed complete, City staff will review applications and conduct pre-contract inspections. A staff report with recommendations will be submitted to the Planning Commission.
September	The Planning Commission will review applications and submit recommendations for approval/denial to City Council.
October	City Council makes the final decision on approval/denial of the Mills Act contracts. The City will notify owners of approval/denial.
November-December	Contracts are signed by owners and City officials. The City will record contracts with Los Angeles County. Properties are reassessed the following year.

Required Fees

In order to apply for consideration under the Mills Act program, owners must submit the Mills Act application fee with the application form. The Application Fee will go into effect following the first ten applications or in the year 2022, whichever comes first.

Application Materials and Checklist

The following section provides a checklist of required application materials, and the two forms required as part of the complete application package: the application form and 10-year work plan form. Copy the work plan form as necessary to include all work items that apply to your property. Include all proposed exterior and interior work (including electrical, plumbing, etc.) to be completed within the next 10 years. Formal quotes are not required for all items, but staff may request documentation of stated costs upon review.

A complete application package shall include **all** of the following items:

- Completed and signed application form (attached);

- An Ownership Disclosure is required if the property is owned by a corporation, partnership, trust, or non-profit. The disclosure must reveal the agent for service of process or an officer of the ownership entity. The disclosure must list the names and addresses of all the owners, and you must attach a copy of the current corporate articles, partnership agreement, trust, or non-profit document, as applicable;
- Completed Rehabilitation/Restoration/Maintenance Work Plan (attached);
- Copy of the latest grant deed, deed of trust, or title report for the property, including a complete legal description. A title report shall be prepared by a title insurer, and dated no later than 90 days from the filing of the historic landmark application;
- Site plan drawn to scale indicating locations of all buildings on the property, street names, north arrow, and dimensions (see example attached);
- High-resolution digital photographs of the property (jpg or tiff files). Please provide a baseline of seven photos: 2 property and grounds overviews, 1 photo of each façade (4 total), and 2 oblique photos showing the front and side façades of the building. Include additional photos as needed to depict historic ancillary buildings (garages, etc.), landscape features, and areas of proposed and completed work;
- A financial analysis form showing current property taxes and estimated taxes for the property under the contract (download from City's website); and
- Required fees.

Application packages should be submitted via hard copy. Portions of the application may be requested on a thumb drive or electronically.

Submit application package to:

City of San Marino Community Development Department
2200 Huntington Drive, First Floor
San Marino, CA 91108

Attachments

Mills Act Application form
Rehabilitation/Restoration/Maintenance Work Plan form
Sample site plan

MILLS ACT CONTRACT PROGRAM

City of San Marino Historic Preservation

Purpose

The City of San Marino has adopted and established a number of incentives to encourage the rehabilitation, maintenance, and preservation of designated historic landmarks, including participation in the Mills Act Program. In order to apply for the Mills Act Tax Incentive Program, the historic resource must first be a designated historic resource, and must be listed as a local, state or national landmark. The Mills Act Contract is an agreement between the City of San Marino and the owner of a designated historic landmark. The agreement requires the owner of the property to undertake specific restoration tasks specified in the contract and to properly maintain the landmark. In exchange for this commitment, the property owner may benefit from a reduction in property taxes. A Mills Act Contract requires that the County Tax Assessor's Office assess the value of the landmark based on its current income potential, rather than future development potential. This can result in substantial property tax savings, especially to recent purchasers of property.

Applicability

Upon designation of a historic resource, the property owner may apply for property tax relief to rehabilitate and maintain the historical and architectural character of their property. The purpose of providing such incentives is to encourage preservation, rehabilitation and maintenance of historic resources.

Qualifying properties must meet at least one of these criteria:

1. Individually listed on the National Register of Historic Places;
2. Individually listed on the California Register of Historical Resources;
3. A designated City of San Marino Historic Landmark;
4. A contributor to a designated Historic District.

Note: Not all historic properties are eligible. California law authorizes cities to enter into contracts ('Mills Acts Agreement") with the owners of qualified historic properties to provide a property tax reduction as an incentive for the use, maintenance, rehabilitation, and restoration of historically designated properties. This property tax abatement has been proven to be the single most important and effective means of encouraging the rehabilitation and maintenance of historic properties. The Mills Act contract also requires that the County Tax Assessor's Office assess the value of the historic resource based on the fair market rental rate, rather than future development potential.

Term of Contract

A Mills Act contract is for 10 years initially with automatic yearly extensions on the anniversary date of the contract, and remains with the property when transferred. The rights and obligations of the contract are also binding upon all successive owners of the property during the life of the contract. To end the contract, either party must submit a notice of non-renewal which will terminate the contract at the end of the ten (10) year period.

A Mills Act contract may be cancelled or modified if the City Council finds, after written notice to the applicant and the property owner, either of the following conditions:

a. The owner/applicant is responsible for noncompliance with any terms or conditions of the contract, or any provision in San Marino Municipal Code Chapter 23.18 (Historic Preservation Ordinance; or misrepresentation or fraud was used in the process of obtaining the contract.

b. The subject property has been destroyed by fire, earthquake, flooding, or other calamity, or it has been taken by eminent domain.

If a Mills Act contract is cancelled due to noncompliance, the property owner shall be liable to the City for a cancellation fee equal to 12.5 percent of the current fair market value of the property.

City of San Marino – Mills Act Application Review Process

A Mills Act contract is a monetary incentive that is granted by the City Council following review and recommendation by the Planning Commission. The application review process is as follows:

1. **Application Submittal:** Mills Act applications shall be submitted to the City by the end of June 30.

2. **City Review and Commission Recommendation:** Following the application submittal deadline, the Planning Commission will review all applications. Within 30 days from the beginning of review, the Planning Commission will make recommendations to the City Council on the merits of the proposed applications.

3. **City Council Action:** City Council may in its sole and absolute discretion authorize the execution of all Mills Act Contracts. Approval of contracts shall be procedural and shall not require a public hearing.

4. Recordation: After the Mills Act Contract is approved by the City Council, It is required to be filed with the County Recorder's Office. The applicant is responsible for insuring that the document is recorded by the County Recorder's Office.

   After recordation, the Recorded Contract is taken to the Los Angeles County Assessor. The Assessor calculates the exact tax savings. Every year the property tax is recalculated by the Assessor.

   Once a property is designated as a historic landmark, all changes to the exterior of structures on the property are subject to the approval of a Certificate of Appropriateness.