



THE CITY OF SAN DIEGO

## **MILLS ACT PROGRAM FOR HISTORICALLY DESIGNATED PROPERTIES**

### Background

The Mills Act was enacted in 1972 by the State of California to enable local jurisdictions “to enter into contracts with property owners of qualified historic properties who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief” (Mills Act Property Tax Abatement Program, Technical Assistance Series, California Office of Historic Preservation). The San Diego City Council adopted Council Policy 700-46 in 1995 “to provide a monetary incentive to the owners of historically designated properties in the form of a property tax reduction for the maintenance, restoration and rehabilitation of historic properties within the City of San Diego.” The City’s first Mills Act agreement was recorded in 1995, during the past 12 years the number of agreements has increased substantially and the program is the most active one within the State. As of the 2007 tax assessment, there were 901 effective Mills Act agreements for historic properties within the City.

The Mills Act Program agreement is a legal contract binding the owner of a designated historical resource to maintain the subject property consistent with the U.S. Secretary of the Interior’s Standards, to provide visibility of the historical resource from the public right-of-way, and to improve or rehabilitate the property based on specific conditions included in the agreement. The agreement is recorded with the County which allows the Assessor to determine the property tax, based on a formula set in State Law that typically results in a substantial annual savings to the property owner. The average savings is 50 percent with a range of property tax reduction between 25 percent and 75 percent. This tax benefit, authorized by the State of California in Government Code Sections 50280-50290, has been available in the City since 1995 and is authorized by Council Policy 700-46.

### Summary of Mills Act Program Components

In 2008 the Mayor sought to reform the City’s Mills Act Program through increased accountability and by managing the fiscal impacts of the tax reduction benefit. The City Council approved several reform measures in December 2008 and established fees for the nomination of individual properties for historical designation and all components of the Mills Act Program. Each of these components and the required fees are summarized below.

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### *Eligibility Requirements*

This property tax reduction is an incentive offered citywide to property owners of designated historical resources that are listed on the City of San Diego Register. In exchange for the reduction in property taxes, the owner is required to maintain their property and its historical significance in accordance with the U.S. Secretary of the Interior's Standards and to rehabilitate or restore portions of the property if necessary. There are limitations on the use of this program within some redevelopment areas. Incentives other than the Mills Act tax reduction may be available in these cases.

### *Application Deadline*

In order to allow sufficient time for the fiscal impacts of new Mills Act agreements to be included in the annual City budget process, owners of historically designated properties are required to submit an application for a Mills Act agreement no later than March 31 to be considered that year. The property must have been designated prior to December 31<sup>st</sup> of the previous year to allow a sufficient separation between the designation process and a subsequent Mills Act agreement.

### *Annual Threshold of New Reduction in Property Tax Revenue*

Although minimal in the overall City budget, it is important to understand the fiscal impact of the Mills Act Program and manage it on an annual basis. The annual reduction of property tax revenue to the City's General Fund from Mills Act property valuations is \$1,134,170, based on a total reduction in property taxes paid by Mills Act property owners in 2008. This reduction in tax revenue to the City is offset by the public benefit of preservation of important historical resources. Maintaining the significant character defining features of historic properties through a Mills Act Program agreement is a keystone of the overall program.

Based on the need to manage the fiscal impacts of the Program, the City Council adopted a fiscal threshold of \$200,000 in new tax revenue reduction to the City's General Fund on an annual fiscal basis. The City Council may authorize exceeding the threshold as part of the annual budget process, based on findings that the fiscal health of the City is such that additional reduction in tax revenue can be supported. Each year, as part of the budget process, staff will report on the number and fiscal impact of Mills Act agreement applications and will seek authorization to exceed the adopted \$200,000 threshold if necessary. If more applications are submitted in a year than can be accommodated under this threshold, and the City Council does not authorize exceeding the threshold, the property owner application would automatically be rolled over to the next fiscal year.

### *Mills Act Agreement Requirements*

All Mills Act agreements require the historic building be visible from the public right-of-way to afford the public enjoyment of viewing the exterior of the resource, and require the property be maintained consistent with the U.S. Secretary of the Interior's Standards, the nationally accepted standard for the treatment of historic properties. Additionally, owners of designated historic properties are required to include a 10-year maintenance and rehabilitation/restoration work plan at the time of application for a Mills Act agreement. Ten years is the minimum contract length and an appropriate time frame for completion of any necessary rehabilitation or restoration work. Maintenance of the character defining features of the resource would be required to continue for the life of the contract.

As part of this 10-year work plan, the property owner is required to demonstrate that the requested Mills Act agreement would result in investment of anticipated tax savings into the designated historic property. A cost estimate of needed maintenance, repairs and/or rehabilitation work is required to be provided by the property owner at the time of application. Costs of rehabilitation or restoration work

completed by the property owner that is consistent with the Standards and was necessary for the property to be eligible for historic designation may be used to demonstrate investment of tax savings in the historic property.

The Mills Act Program agreement is entered into for a period of ten years, with automatic renewal each year unless one of the parties proposes to end it. The City of San Diego may propose to end the Mills Act Program agreement if the property is not maintained in accordance with the U.S. Secretary of the Interior's Standards, or if other contract provisions are not met.

### *Inspection Schedule/Monitoring*

While there is a responsibility on the part of the property owner to maintain the historical significance of their designated resource, there is also a responsibility on the part of the City to assure that a property remains in compliance with the provisions of the Mills Act Program agreement, resulting in preservation of the designated historical property. Staff has developed a monitoring program that primarily entails site visits, records maintenance, and staff review of compliance with contract requirements on a five-year basis. This level of monitoring will allow contact with a new owner, if there has been a change in ownership, to explain the responsibilities and provisions under the Mills Act Program agreement, since the historical designation and Mills Act Program agreement run with the property. It will also provide adequate review in cases where owners make changes that may negatively affect the property's historical integrity but do not typically require a building permit, or where owners make substantial changes to the property without obtaining the required permit. Staff will work with property owners to remedy any problems identified through the inspection process. A maintenance, rehabilitation, and/or restoration plan may be prepared as part of a renewal of an agreement to assure the necessary remedy.

### *Fees*

This program includes the following fees, adopted by the City Council, effective December 15, 2008, to recover the costs of staff time devoted to the tasks specifically related to historic designation of individual properties and all components of the Mills Act Program.

- **\$1,185 for the historic designation process**, due upon submittal of the nomination or in cases when there is a backlog of nominations, prior to staff review of the submittal (*a fee of \$500 was approved for nomination requests submitted prior to December 15, 2008*);
- **\$471 for the Mills Act Program agreement**, due with the property owner's application;
- **\$234 to be assessed for monitoring** with the initial Mills Act Program agreement and every five years thereafter, due upon submittal of a signed and notarized Mills Act Program agreement; and
- **\$756 for enforcement of a Mills Act agreement** when remedies for violations are sought and as part of an enforcement action by the City.