



Meeting Date 04/10/2007

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input checked="" type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Study Session

Prepared By: Nicole Doner, Associate Planner *ND* Agenda Item No. K-1

Reviewed By: City Manager *YEB* City Attorney *Y.* Finance *STO* Other (Specify) _____

DATE: April 3, 2007

TO: City Council

FROM: Matthew Winegar, AICP, Development Services Director *[Signature]*

SUBJECT: Authorization of Mills Act Agreements

RECOMMENDATION

That City Council adopt a resolution authorizing Mills Act agreements for historical property.

DISCUSSION

The Mills Act Property Tax Abatement Program is state legislation that grants participating local governments (cities and counties) the authority to enter into property tax relief contracts with owners of qualified historic properties who agree to restore and/or maintain their historic properties. This resolution would authorize the City to enter into Mills Act agreements with individual qualifying private property owners.

On July 11, 2006, the City Council conducted a study session outlining the Mills Act program. Under the City-administered program, a Mills Act or Historical Property Contract would be executed between the City of Oxnard and the property owner for a minimum ten-year term. Contracts are automatically renewed each year and are transferred to new owners when the property is sold. Property owners agree to restore, maintain, and protect the property in accordance with specific historic preservation standards and conditions identified in the contract. Periodic inspections by city or county officials ensure proper maintenance of the property. The City may impose penalties for breach of contract or failure to protect the historic property. The Mills Act would apply to qualifying City landmark properties, primarily the homes within the Henry T. Oxnard National Historic District.

In accordance with the California Environmental Quality Act (CEQA) Guidelines, the authorization to enter into Mills Act contracts is a discretionary action and defined as a CEQA project. As each Mills Act contract will be an individual contract specific as to a particular property and its improvements, each contract would be subject to CEQA. Most Mills Act contracts are expected to fall under a Class 2 CEQA exemption, "Replacement or reconstruction of existing structures on the same site having substantially the same use."

FINANCIAL IMPACT

Participation in a Mills Act contract makes the homeowner eligible for a property tax reduction of between 40% to 60%, depending on the taxable valuation of the property. Based on the rate of homeowner participation in other cities that have offered Mills Act contracts, we could expect between 2 to 5 homeowners to participate. A two-thirds reduction in property tax would result in a loss of approximately \$450 per home. This would result in a loss of between \$900 to \$2,250 per year in property tax to the City.

Staff also proposes that the Mills Act Program be self-supporting in accordance with City financial policies. The proposed processing fees are \$600 for the initial application and a \$100 annual inspection fee. These fees are comparable to those charged by the County of Ventura.

(DLS, dls)

- Attachment #1. Resolution authorizing Mills Act agreements for historical property.
2. Proposed Historical Property Contract.

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
AUTHORIZING MILLS ACT AGREEMENTS FOR HISTORICAL PROPERTY

WHEREAS, preservation of cultural and historical resources of the City contributes to the quality of life in the City and to the welfare of City residents and visitors; and

WHEREAS, the City Council has designated historical property within the City as landmarks, including individual parcels of property and entire neighborhoods; and

WHEREAS, Government Code section 50280 et seq. ("the Mills Act") authorizes the City Council to enter into agreements with the owners of qualified historical property to restrict the use of the property and to preserve and rehabilitate the property; and

WHEREAS, property subject to Mills Act agreements is eligible for property tax reduction by the Ventura County Assessor, pursuant to Revenue and Taxation Code section 439 et seq., which provides an incentive for the owners of historical property to enter into Mills Act agreements; and

WHEREAS, entering into Mills Act agreements with the owners of qualified historical property increases the likelihood that such property will be property maintained and rehabilitated; and

WHEREAS, the City Council finds that the adoption of this resolution is exempt from the California Environmental Quality Act (CEQA) pursuant to sections 15331, 15061(b)(3) and 15308 of Title 14 of the California Code of Regulations (the State Guidelines implementing CEQA); and

WHEREAS, the City Council further finds that the fees adopted in this resolution are exempt from CEQA pursuant to section 15273(a) of Title 14 of the California Code of Regulations because such fees are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits, as set out in the agenda report concerning this resolution.

NOW, THEREFORE, the City Council of the City of Oxnard resolves:

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1. Applicants for Mills Act agreements shall pay a fee of \$600 on filing an application and an annual fee of \$100 each year that the agreement is in effect to pay the administrative costs of processing the application and inspecting the historical property thereafter. Such fees shall be automatically increased on January 1 of each year, beginning on January 1, 2008, by the percentage change from September 1 two calendar years previously to September 1 of the previous calendar year, in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles-Anaheim-Riverside area relating to all urban consumers.

2. The attached application and agreement forms for Mills Act agreements, marked Exhibit A and Exhibit B, respectively, are approved. Such forms may be modified as necessary if approved as to form by the City Attorney.

3. Proposed agreements shall be presented to the City Council at a regularly scheduled meeting, together with the recommendation of the City's Cultural Heritage Board.

PASSED AND ADOPTED this _____ day of _____, 2007, by the following vote:

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

APPROVED AS TO FORM:

Daniel Martinez, City Clerk

Gary L. Gillig 04-02-07

Gary L. Gillig, City Attorney

HISTORICAL PROPERTY CONTRACT

THIS AGREEMENT is made and entered into by and between

CITY OF OXNARD, State of California,

hereinafter called (“**CITY**”) and

hereinafter called (“**OWNER**”)

RECITALS

OWNER possesses and owns real property located within CITY, as described in Exhibit A, attached hereto and incorporated herein by this reference.

The real property is qualified historical property that is privately owned, is not exempt from property taxation, and is either: (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; or (b) listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places or landmarks. The real property is hereinafter referred to as the “Historical Property.”

Both CITY and OWNER desire to carry out the purposes of Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the California Government Code, and Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code.

Both CITY and OWNER desire to preserve the Historical Property and, when necessary, to restore and rehabilitate the Historical Property to retain its characteristics as property of historical significance.

A G R E E M E N T

NOW, THEREFORE, OWNER and CITY, in consideration of the mutual promises, covenants and conditions contained herein and the substantial public benefits to be derived therefrom, agree as follows:

1. Agreement Subject to California Government Code Sections 50280-50290

This Agreement is made pursuant to California Government Code Sections 50280 through 50290 and Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the California Revenue and Taxation Code, and is subject to all of the provisions of those statutes.

2. Furnishing Information

OWNER shall furnish CITY with any information requested by CITY to enable CITY to determine the eligibility of the Historical Property to be classified as qualified historical property.

3. Preservation, Restoration and Rehabilitation of Property

OWNER agrees to preserve, restore, and rehabilitate the Historical Property in conformance with the following conditions, requirements, and restrictions:

- a. OWNER shall preserve and maintain the characteristics of historical significance of the Historical Property. A list of the minimum standards and conditions for maintenance, use, and preservation of the Historical Property, which shall apply to such Historical Property throughout the term of this Agreement, is attached hereto as Exhibit B and incorporated herein by this reference.
- b. OWNER shall, where necessary, restore and rehabilitate the Historical Property according to the rules and regulations of the Office of Historic Preservation and the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code, and in accordance with schedule of rehabilitations attached hereto as Exhibit C and incorporated herein by this reference.

4. Inspections

OWNER agrees to permit periodic examinations of the interior and exterior of the Historical Property by CITY's Cultural Heritage Board representative(s), the Assessor of Ventura County, the State Department of Parks and Recreation, and the State Board of Equalization, as may be necessary to determine OWNER'S compliance with this Agreement.

5. Annual Fee

Each year on the anniversary date of this Agreement, OWNER shall pay an annual fee of \$100 to CITY's Cultural Heritage Board for inspection of the Historical Property by Cultural Heritage Board representative(s).

6. Term of Agreement

The term of this Agreement shall be for a minimum period of ten years, from _____ to and including _____.

7. Notification by Owner

OWNER or an agent of OWNER shall provide written notice of this Agreement to the Office of Historic Preservation within six months of the execution of this Agreement.

8. Automatic Renewal

On the anniversary date of this Agreement, one year shall be added automatically to the initial ten year term of the Agreement, unless Notice of Nonrenewal is given as provided in this Agreement.

9. Notice of Nonrenewal

If in any year either OWNER or CITY desires not to renew this Agreement, that party shall serve written Notice of Nonrenewal on the other party in advance of the annual renewal date. Unless the Notice is served by OWNER at least 90 days or by CITY at least 60 days prior to the renewal date, one year shall automatically be added to the term of this Agreement. Upon receipt by OWNER of a Notice of Nonrenewal from CITY, OWNER may make a written protest. At any time prior to the renewal date, CITY may withdraw its Notice of Nonrenewal.

10. Effect of Notice of Nonrenewal

If in any year either party serves Notice of Nonrenewal, this Agreement shall remain in effect for the balance of the period remaining since the original execution or the last renewal of this Agreement, as the case may be.

11. Cancellation

CITY may cancel this Agreement if CITY determines OWNER has breached any of the conditions or covenant of this Agreement or has allowed the Historical Property to deteriorate to the point that it no longer meets the standards for qualified historical property. CITY may also cancel this Agreement if it determines OWNER has failed to restore or rehabilitate the Historical Property in the manner specified in this Agreement.

12. Notice of Cancellation

This Agreement cannot be cancelled until after CITY has given notice and has held a public hearing regarding the grounds of cancellation set forth in paragraph 11. Notice of the hearing shall be mailed to the last known address of OWNER of the Historical Property and to each owner of property within the historic zone where the Historical Property is located, and shall be published in accordance with Government Code Section 6061.

13. Cancellation Fee

If CITY cancels this Agreement in accordance with paragraph 12 above, OWNER shall pay a cancellation fee of 12-1/2% of the current fair market value of the Historical Property at the time of cancellation, which shall be determined by the Ventura County Assessor without regard to any restriction on the Historical Property imposed pursuant to this Agreement. The cancellation fee shall be paid to the Ventura County Auditor-Controller at such time and in such manner as he or she shall prescribe. The Ventura County auditor shall allocate the cancellation fee to each jurisdiction in the tax rate area in which the Historical Property is located in the same manner as he or she allocates the annual tax increment in that tax rate area in that fiscal year.

14. Alternative Enforcement

As an alternative to cancellation of this Agreement for breach of any condition, CITY or any landowner may bring any action in court necessary to enforce the Agreement including, but not limited to, an action to enforce the Agreement by specific performance or injunction.

15. Notices

All notices required by or provided for in this Agreement shall be given in writing and may be mailed or delivered in person. If mailed, the address of OWNER shall be that last known address on CITY records, and CITY's address shall be: Planning and Environmental Services Division, Attn: Cultural Heritage Board, 305 West Third Street, Second Floor, Oxnard, California 93030. Deposit of notice in the mail, postage prepaid, shall be deemed receipt of the notice.

16. No Compensation

OWNER shall not receive any payment from CITY in consideration of the obligations imposed under this Agreement, it being recognized and agreed that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that will accrue to OWNER as a result of the effect upon the assessed value of the Historical Property on account of the restrictions on the use and preservation of the Historical Property.

17. Remedy if Agreement Held Not an Enforceable Restriction

If a court determines, and that determination is not appealed or is upheld on appeal, that this Agreement does not constitute an enforceable restriction within the meaning of the applicable provisions of California Government Code and the California Revenue and Taxation Code, except for an unenforceability arising from the cancellation or nonrenewal of this Agreement, for any tax year during the Term or any renewal of this Agreement, then this Agreement shall be null and void and without further effect and the Historical Property subject to this Agreement shall from that time be free from any restriction whatsoever under this Agreement without any payment or further act of the parties to the Agreement.

18. Eminent Domain Proceedings

In the event that the Historical Property 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 CITY to frustrate the purpose of this Agreement, the Agreement shall be cancelled and no fee shall be imposed under Government Code Section 50286. This Agreement shall be deemed null and void for all purposes of determining the value of the property so acquired.

19. Recordation

No later than 20 days after CITY enters into this Agreement, the City Clerk of the City of Oxnard shall record a copy of the Agreement (with properly notarized signatures of the Agreement signatories). This Agreement shall be recorded on or before the lien date for the fiscal year in which the valuation, pursuant to Revenue and Taxation Code Section 439 et seq., will apply. From and after the time of recordation, this Agreement shall impart notice thereof to all persons, as is afforded by the recording laws of the State.

20. Successors and Assigns

This Agreement is binding upon and shall inure to the benefit of all successors in interest of OWNER. A successor in interest shall have the same rights and obligations under this Agreement as the original OWNER who entered into this Agreement.

IN WITNESS WHEREOF, CITY and OWNER have caused their names to be affixed hereto by the proper officers thereof. This Agreement is signed and executed this _____ day of _____, 20 _____.

CITY OF OXNARD

OWNER

Dr. Thomas E. Holden, Mayor

(Name(s))

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Gary L. Gillig, City Attorney

APPROVED AS TO CONTENT:

Edmund F. Sotelo, City Manager

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ATTACHMENT 2
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