

Agenda Date: 10/7/2014

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Mark Danaj, City Manager

FROM:

Richard Thompson, Community Development Director

Laurie Jester, Planning Manager

Angelica Ochoa, Associate Planner

SUBJECT:

Presentation of Mills Act Pilot Program to Provide Incentives for Preserving Historical Resources and Sample Resolution (Community Development Director Thompson).

**PROVIDE DIRECTION AND APPROPRIATE \$50,000 FROM UNRESERVED FUNDS TO
HIRE A HISTORIC PRESERVATION CONSULTANT**

RECOMMENDATION:

Staff recommends that the City Council consider the information in this report, including the attached sample Resolution (Attachment 1) for a two-year Mills Act Pilot Program, and provide direction. If the Council is supportive then staff will initiate the public input process to obtain comments from community stakeholders, such as the School District, County, Library and residents, and initiate the Request for Proposal process to retain the services of a historic preservation consultant. Staff will then return at a future date with this information, and the Council can then determine the direction to take with the Mills Act, which could include: 1) continued services from the historic preservation consultant, 2) options for additional Planning staff support and funding, 3) a fee resolution to establish a Culturally Significant Landmark application fee and Mills Act application fee, and 4) amendments to the Culturally Significant Landmark Ordinance, Chapter 10.86 of the MBMC.

FISCAL IMPLICATIONS:

Adoption of a Mills Act Pilot Program will require additional staff time and resources, as well as the services of a historic preservation consultant. We estimate that administration of the program will require one half-time Planner plus support staff, which is estimated to cost up to \$60,000 annually. Additionally, the services of a qualified historic preservation consultant are projected to cost approximately \$50,000 annually.

If the City Council provides direction to further pursue a Mills Act Pilot Program, staff will return at a future date with a number of items, including a Resolution establishing Landmark Designation and Mills Act application fees. Staff is requesting that the Council consider authorization of an appropriation of \$50,000 from unreserved General Fund balances to retain the services of a historic preservation consultant with specialized knowledge to assist staff.

In addition to staff and consultant costs, the implementation of a Mills Act Program will result in a reduction in property tax revenue for the City, the School District, the County and a number of other agencies. Anticipated impacts to property tax revenue are discussed in further detail below.

BACKGROUND:

On June 17, 2014, staff provided the City Council with a report on the Mills Act. At that time, the City Council directed staff to research the feasibility of implementing a Mills Act program to provide tax incentives to property owners to preserve, maintain, and rehabilitate historic properties in the City (Attachment 2). The Council also requested that staff provide additional information on the fiscal impacts of establishing a Mills Act program. Finally, the City Council requested that staff coordinate with the Manhattan Beach Cultural Heritage Conservancy (MBCHC).

Since September 2006, the Culturally Significant Landmark ordinance has been in effect pursuant to Title 10, Chapter 10.86 of the Manhattan Beach Municipal Code (Attachment 3). A local task force comprised of voluntary members from the community was formed in 2006 to increase public awareness and community appreciation of Manhattan Beach's unique heritage. The MBCHC is headed by Jan Dennis, a local historian. This group has been an invaluable resource, actively researching potential historic properties throughout the City to designate as Cultural Significant Landmarks, coordinating with the property owners and presenting these properties to the City Council for local designation. To date, the City has designated 18 properties as Landmarks through the efforts of the MBCHC. Of these 18 properties, two have been accepted by the State Historic Preservation Office to be listed in the California Register of Historical Resources.

In June 2011, the City Council reviewed amendments to the Landmark Ordinance to remove the need for a required public hearing for designating properties as culturally significant; a City Council public meeting is now all that is required. The current Ordinance is very limited and only acknowledges and designates properties of historical and/or cultural significance, but does not prevent the ability to alter or demolish a designated property. Properties may only be nominated by the property owner and the designation is voluntary in nature. The criteria for determining designation includes architectural significance, association with local significant events, association with a significant designer and unique locations which are associated with the City.

DISCUSSION:

The intent of this report and discussion is for the Council and the community to understand the implications of a Mills Act program. The Program provides the unique opportunity to preserve our community's local history, and encourage investment in the continued upgrade of those resources that enhance our environment. There are many complexities involved with the

adoption of a Program and staff is requesting further direction on a number of items as discussed within this report.

Mills Act Program

The Mills Act, enacted by the State of California in 1972, grants participating local governments the authority to enter into contracts with owners of qualified historical properties to receive property tax relief. In exchange, property owners must actively participate in the preservation, maintenance, and rehabilitation of their historical properties. In order to qualify, the privately owned property must be listed in the National Register of Historic Places, located in a national historic district, or listed in a State or city register of historical or architecturally significant sites, places, or landmarks. In short, property owners enjoy financial benefits under the Mills Act, while the community enjoys the preservation and maintenance of historic resources.

Under the Mills Act, contracts are entered into by the local government and the property owners for a minimum of 10 years. The contracts renew automatically every year, so the contract is always a 10-year contract, unless the property owner or City decides not to renew. There are penalties to the property owner for early termination of the contract, as well as for failing to maintain the property. Each local government establishes its own contracts and determines how many contracts are allowed in the particular jurisdiction, and the details of the contract.

Staff met with two members of the MBCHC to discuss the potential adoption of a Mills Act program and its relationship to the City's Landmark Ordinance. The MBCHC reviewed the City of Beverly Hills Landmark regulations (Attachment 4) and suggested that City of Manhattan Beach adopt their criteria with the revisions described below.

- *Age threshold incorporation:* Establish a local landmark age eligibility requirement of 45 years. Properties less than 45 years may still be considered if they are found to have exceptional historical significance which shall be determined at the discretion of the advisory body/consultant and City Council.
- *Creation of potential historic district:* A geographic area may be designated a historic district if the proposed district is found to meet certain criteria.
- *Hold period for certain permits:* This process would protect potential future historically/culturally significant properties that may be threatened with alteration or demolition by allowing the City to hold off the issuance of permits in order to examine the structure and consider if the property is a potential candidate for landmark designation.

Staff also reviewed the Redondo Beach and Brea regulations (Attachments 5 and 6). If the City Council provides direction to pursue the Mills Act further, staff will work with the historic preservation consultant and the MBCHC, taking the best and most applicable elements of these and other ordinances and provide customized future amendments to the Manhattan Beach Landmark ordinance. Amendments to the Landmark ordinance would then be considered by the City Council at a future date.

Surrounding Cities

Many cities in Southern California have established Mills Act programs, including the cities of Beverly Hills and Redondo Beach. Staff contacted these cities to obtain information regarding program implementation, required staff time, fiscal impacts, and general management of their Mills Act programs.

Beverly Hills

Beverly Hills originally adopted a Mills Act Pilot Program in 2011. Earlier this year, the City extended the program until 2016. In order to minimize the fiscal impact of the program, the City of Beverly Hills limited the annual revenue loss from property tax revenues to \$50,000 each year, and limited the program to three contracts during the first year. As part of the program extension earlier this year, Beverly Hills increased the annual revenue loss to \$100,000, while continuing to limit contracts to a maximum of three per year. The City's Architectural Commission serves as an advisory body to the City Council, making recommendations on Mills Act applications.

To date, Beverly Hills has entered into a total of two agreements and staff is currently processing two additional requests. The City has an Urban Designer, an Associate Planner, and a historic preservation consultant who work on the Mills Act program. Approximately one-half of the Urban Designer's time is devoted to historic preservation and Mills Act activities, while the entirety of the Associate Planner's time is currently devoted to the Mills Act program. The cost for the historic preservation consultant's services is approximately \$25,000 annually.

Redondo Beach

Redondo Beach has had a Mills Act program since 1992. Redondo Beach does not limit revenue loss from reduced property taxes, nor does it limit the allowable number of annual Mills Act contracts. Like in Beverly Hills, the City has an Architectural Commission that serves as an advisory body to the City Council. Since 1992, Redondo Beach has entered into a total of 93 agreements and staff is currently processing two additional requests. Given the longevity of the program, the City does not need to devote significant staff time to administering the program. As such, the City has one Associate Planner who spends approximately half of his time processing Mills Act requests.

Anticipated Impact on Property Tax Revenue

Mills Act contracts generally result in a reduction of property taxes for each assessed property. The impact of the Mills Act on a property's assessment will vary depending on how recently the property was purchased and the purchase price. In general, more recently purchased properties that tend to have higher assessed values, would receive greater reductions, and properties that have been held by the same owner for many years may potentially receive no reduction.

A property's value under the Mills Act is not the same as market value. The Mills Act requires the County Tax Assessor to re-evaluate the property using a capitalization method rather than being based on market value. Accordingly, the Assessor determines the value of the historic property based upon its current potential net operating income, rather than the traditional assessed valuation method. The Assessor determines the assumed rental income and deducts expenses and capitalization rates as shown in the estimates prepared by staff in the attached examples (Attachment 8). The result is a substantial reduction in property taxes. In exchange for

the reduction in property tax payments, property owners must maintain, and if necessary restore and rehabilitate the property to conform to the rules and regulations of the California Office of Historic Preservation, the U.S. Department of Interior's Standards for Rehabilitation, and the California Historical Building Code (Attachment 7). Essentially, the property owners must provide for long-term maintenance, restoration, and preservation of the qualified historical property.

Based on the example in Attachment 8, it is estimated that for a property with an assessed value of \$2 million dollars (\$5,000/month rent assumption), participation in the Mills Act program could reduce the owner's total property tax from \$20,000 to approximately \$3,500 annually. Without the Mills Act contract, the City's share of the total property tax revenue, at approximately 15 percent of the total property tax collected, would be approximately \$3,000 annually. With a Mills Act contract in place, the City's share would be reduced to approximately \$600 annually. Based on the same estimation, loss in revenue to the Manhattan Beach Unified School District could be approximately \$6,400, or 39 percent (MBUSD 16 percent and Educational Augmentation Funds 23 percent). This would be an annual revenue loss, initially for 10 years and would continue on a yearly basis, unless the City or property owner canceled the contract. The County would have about a 31 percent reduction and the balance of the reduction, 15 percent, would be spread across other agencies, such as the County Library, Beach Cities Health District, Vector Control, etc. The City receives about \$24 million in property tax revenue annually, which accounts for about 40 percent of the General Fund budget.

For a property with the same assessed value of \$2 million and a \$10,000 per month rent assumption, it is estimated that participation in the Mills Act program could reduce the total property tax from \$20,000 to approximately \$7,467. The City's revenue share would be reduced from \$3,000 to approximately \$1,200.

The City has the option of limiting the annual revenue loss from property tax revenues each year, as well as limiting the maximum number of agreements approved per year, similar to Beverly Hills. The number of contracts allowed on a yearly basis will have a direct impact on staffing and resources.

Staffing and Resources

Adoption of the Mills Act Program will require additional staff time and resources. Administration of the ordinance would involve the following: identifying eligible properties, processing of applications including Commission and/or Consultant review, then City Council action, preparing and enforcing each contract with each property owner, reviewing and approving any proposed alterations to the eligible properties during the term of the contract, and monitoring the property and the completion of the preservation plan to assure that the property is maintained to the standards of the contract and State requirements (Attachment 7).

Mills Act Process

Mills Act agreement requests involve a two-step approval process. First, the property must be listed on one of the requisite registers or be located in a nationally registered historic district. If the property is not listed on the California or federal registers, the first step would be to obtain the local culturally significant landmark designation. An advisory body (Landmark Commission and/or historic preservation consultant) would review the project and provide comments and a

recommendation, and the City Council would take action on the application. In either case, it is anticipated that the MBCHC would provide review and comments throughout the process. All properties interested in entering into the Mills Act program would be required to obtain the Landmark designation either prior to submitting for the Mills Act program or concurrently. The historic preservation consultant would assist staff in reviewing the current 18 local Landmark properties to determine if they would qualify for the Mills Act. The two properties with State designation would be eligible for Mills Act property tax reduction if a Program is approved.

Second, the property owners must apply to have the City Council approve a Mills Act contract. Overall, staff anticipates that requests to participate in the Mills Act program would include the following steps:

1. *Pre-Application Meeting:* Prior to the submittal of the application, the property owner would have a pre-application review meeting with City staff and a historic preservation consultant. The purpose of the pre-application review meeting is to confirm that the property qualifies for the program and to ensure that the application submittal requirements, and the mandatory terms of the Mills Act Contract, are understood. The Pre-Application Meeting would include a site visit.
2. *Application Submittal:* The application would include information on the proposed Rehabilitation, Restoration, and Maintenance Plan; drawings; samples; cost estimates; photographs; and any other materials or studies needed.
3. *Application Review:* City staff and the historic preservation consultant would review the submitted materials and determine if the application is complete and may schedule a meeting with the applicant to discuss details of the proposal. The application would be scheduled for review before the advisory body or the historical preservation consultant.
4. *Commission or Historical Consultant Recommendation:* The Mills Act Application would be considered by the advisory body or the historic preservation consultant, which would make a recommendation to the City Council.
5. *City Council Action:* The City Council would make the final decision on the application.
6. *Contract Execution and Recordation:* If approved by the City Council, the City would execute the contract and forward it to the County Recorder's office for recordation. The recorded copy will be returned to the City for submission to the County Tax Assessor's office for implementation. The Los Angeles County Assessor is responsible for calculating property tax reductions. The County Assessor reassesses Mills Act properties once a year.

The City has the option of limiting the annual revenue loss from property tax revenues each year as well as limiting the maximum number of agreements approved per year similar to Beverly Hills. The number of contracts allowed on a yearly basis will also have a direct impact on staffing and resources.

CONCLUSION:

Next Steps

The intent of this report and discussion is for the Council and the community to understand the implications of a Mills Act program. The Program provides the opportunity to preserve our community's local history, and encourage investment in the continued upgrade of those resources that enhance our environment. If the City Council would like to further pursue a Mills Act Pilot Program, direct staff to proceed with the next steps as follows:

- Initiate public input process in order to obtain comments from community stakeholders, such as the School District, County, Library and residents.
- Prepare and issue Request for Proposals to retain the services of a historic preservation consultant to prepare Code Amendments, initially administer the program and provide training to City staff.

Staff will bring this public input, and the Request for Proposals to the City Council then proceed further with the Mills Act Program, as directed by Council as follows:

- Provide options for additional Planning staff support and funding.
- Prepare for Council consideration a fee resolution to establish a Culturally Significant Landmark application fee and Mills Act application fee.
- Prepare amendments to the Culturally Significant Landmark Ordinance, Chapter 10.86 of the MBMC, per the MBCHC's recommendations.

If the City Council adopts the Resolution establishing the Mills Act Pilot Program, it would not become effective until staff and the historic preservation consultant finalize the specifics of the program guidelines, application materials, and review criteria and procedures, Landmark Code Amendments, fees, the associated outreach materials, and any other required information. Throughout the duration of the Pilot Program, staff will assess the effectiveness and efficiency of the Mills Act application process, reviewing procedures and criteria, and the overall viability of the program. Staff would also provide periodic updates on the Pilot Program to the City Council.

ATTACHMENTS

- 1- Sample Resolution Establishing a Mills Act Pilot Program
- 2- City Council report and minutes-June 17, 2014
- 3- Chapter 10.86- Culturally Significant Landmarks
- 4- City of Beverly Hills - Municipal Code Article 32- Historic Preservation with MBCHC comments and recommendations)
- 5- City of Redondo Beach Historic Preservation regulations
- 6- City of Brea Historic Preservation regulations
- 7- Office of Historic Preservation website information
- 8- Examples of Property Tax Calculations under the Mills Act- ESTIMATES ONLY

RESOLUTION NO. 14-0062

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL ESTABLISHING A MILLS ACT **PILOT** PROGRAM INCLUDING DEVELOPMENT OF AN APPLICATION PROCESS, REVIEW PROCEDURES, AND REQUIRED CONTRACT PROVISIONS FOR IMPLEMENTATION OF THE ACT IN THE CITY

Section 1. On June 17, 2014 the City Council directed City Staff to review and present for future Council consideration a Mills Act Program for the City of Manhattan Beach to incentivize the preservation, maintenance, and rehabilitation of historic properties.

Section 2. A Mills Act Program would provide property tax reductions to property owners who agree to invest in the preservation and rehabilitation of qualifying historic properties. Pursuant to Government Code Section 50280 et seq. ("the Mills Act"), the City Council may establish a program pursuant to which the City may enter a historical property preservation agreement ("Preservation Agreement") with an owner of a historic property for the purposes of preservation, rehabilitation, and maintenance of a designated historic resource in accordance with the United States Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and applicable City codes ("Mills Act Program"). The Preservation Agreement allows the owner to receive a reduction in property taxes in exchange for the property owner's commitment to repair, restore, rehabilitate, and/or maintain the historic property.

Section 3. The preservation and rehabilitation of historic properties would enhance the character of Manhattan Beach by retaining the City's sense of place and continuity with the community's past. As a matter of public policy, the identification, designation,

preservation, enhancement, perpetuation and use of improvements, buildings and structures within the City that reflect special elements of the City's cultural, historical, agricultural, architectural, artistic, educational, or economic heritage is in the interest of the health, economic prosperity, cultural enrichment and general welfare of the people. Preservation of historic resources is an important aspect of tourism. By encouraging property owners to maintain and restore historic buildings and landscapes, the City is preserving its history and supporting the local economy. Preservation Agreements would benefit residential neighborhoods, businesses, community pride, and regional image.

Section 4. The City's General Plan Land Use Element includes policies related to preserving resources that represent the City's history and culture or contribute to the City's special character and unique identity. Specifically, General Plan Policies LU-1.1, LU-2:3, LU-4.4, LU-4.5, and LU-4.6, focus on protecting and preserving the City's significant historic character of homes and residential neighborhoods.

Section 5. The City of Manhattan Beach Municipal Code has established procedures for identifying and designating historic resources. Culturally Significant Landmarks Code (City of Manhattan Beach Municipal Code, Title 10, Chapter 10.86) is intended to identify buildings, structures, and sites that are of particular historic or cultural significance and define the City's heritage and historic development. The **Landmark Commission and/or Historical Consultant and City staff** are designated to serve as an advisory capacity to the City Council on the preservation of historic and cultural landmarks. In this capacity, the Landmark Commission and/or Historical Consultant and the Community Development Department, which is the department that supports the Landmark Commission and/or Historical Consultant, are positioned

to administer programs the City establishes for rehabilitating, restoring, maintaining and preserving historic structures, including a Mills Act Program.

Section 6. On October 7, 2014 the City Council considered the draft Mills Act Pilot Program. Prior to taking action on the proposed program, the City Council considered written and oral reports by City staff, and public testimony.

Section 7. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the City evaluated the action of establishing a Mills Act Pilot Program. The Mills Act Pilot Program establishes a property tax reduction for property owners that rehabilitate, restore, maintain, and preserve properties that are determined to be of historic significance. The establishment of a Mills Act Pilot Program does not authorize any new development or construction of buildings, nor does it authorize any new land uses. The program encourages the continued use of existing structures and the continuance of existing land uses. For these reasons it can be seen with certainty that the Mills Act Pilot Program will not result in any significant adverse impact on the environment. Thus, the establishment of the Program is exempt from the CEQA environmental review requirements pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. Further, the Mills Act Pilot Program would be categorically exempt from environmental review pursuant to section 15331 of the CEQA Guidelines, which exempts projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (Weeks and Grimmer, 1995) in that it is a program that results in the preservation and

maintenance of historic resources in exchange for property tax reductions. In addition, the Program is categorically exempt from CEQA, pursuant to CEQA Guidelines Section 15308 because it is an action by a regulatory agency (the City) to maintain, restore and protect the environment through protection of historical resources in the community.

Section 8. The City of Manhattan Beach Mills Act Pilot Program (Mills Act Program) shall go into effect at midnight on _____, and shall continue in effect, for two (2) years, until 11:59 p.m. on _____. To allow adequate processing time, new applications for preservation agreements shall be accepted from _____ of each calendar year the Pilot Program is in effect. No new applications will be accepted into the program after _____, unless a permanent Mills Act Program is established to supersede the Mills Act Pilot Program. If a permanent Mills Act Program is not established, preservation agreements adopted prior to _____, shall continue in effect, unless terminated or cancelled in accordance with the Mills Act.

Section 9. A “qualified historic property” for the purposes of the Manhattan Beach Mills Act Pilot Program shall be defined as:

- a. A single-family residential property, a multi-family residential property or a commercial property with a tax assessed value not exceeding **\$7.5 million dollars**, unless exempted from the maximum tax assessed value through exceptional circumstances;
- b. Located entirely within the City of Manhattan Beach;
- c. Privately owned;
- d. Not exempt from property taxation; and

- e. Individually listed in the City of Manhattan Beach as an official Culturally Significant Landmark.

Section 10. To limit any fiscal impact of the Mills Act Pilot Program, the City of Manhattan Beach shall limit annual revenue loss from property tax revenues to **\$50,000** each year. To further limit any fiscal impact, the City of Manhattan Beach shall not enter into or execute more than **three (3)** preservation agreements per calendar year during the term of the Mills Act Pilot Program. If less than **three (3)** preservation agreements are executed during the first calendar year, the remainder may be rolled over to the second calendar year for a total of **six (6)** preservation agreements for the two-year term of the Mills Act Pilot Program. No more than **six (6)** preservation agreements shall be entered into during the term of the Mills Act Pilot Program. To further limit unanticipated potential losses to property tax revenue, contracts executed under the Mills Act Pilot Program shall specify that the City has full right to cancel the contract, on an annual basis, the first year and every year thereafter, pursuant to Government Code Section 50280. To encourage participation by various property owners, the City may establish a means of accepting applications to the Mills Act Pilot Program that ensures that both commercial and residential property owners have an opportunity to participate.

Section 11. The City Council hereby delegates to the Director of Community Development or his or her designee, with review by the City Attorney, the authority and responsibility to develop, maintain, and amend, as necessary, an application, administrative guidelines, and forms of Preservation Agreements for properties seeking qualification and participation in the Mills Act Pilot Program. The Director of Community Development or his or her designee shall, as necessary, establish priority consideration criteria whereby such criteria

shall be used to rank applications in terms of the preservation and rehabilitation needs of each property and prioritize selection of applications. The Director of Community Development or his or her designee shall also report on an annual basis to the City Council the number of Mills Act preservation agreements executed and the effectiveness of the Mills Act Pilot Program. The terms of the Preservation Agreement shall comply with Government Code Section 50280 et seq. The maintenance, repair, rehabilitation, and/or restoration standards applicable to the subject property shall be set forth in the Preservation Agreement. In consideration of abiding with the terms of the Preservation Agreement, the owner of the subject property shall be entitled to qualify for a reassessment of the historic property pursuant to State Revenue and Taxation Code Section 439 et seq.

Section 12. The City Council hereby delegates to the **Landmark Commission and/or Historical Consultant and City staff** the authority and responsibility to review and make recommendations to the City Council on applications submitted pursuant to the Mills Act Program. The City Council shall be the final authority on the authorization and approval of Preservation Agreements pursuant to the Mills Act Pilot Program.

Section 13. Preservation Agreements will have a minimum contract term of 10 years, with automatic renewal on an annual basis, to be recorded against title to the property and running with the land. Owners shall maintain the regulated characteristics of historical significance of the historic property in accordance with the rules and regulations of the State Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and any applicable local codes and policies. Owners must allow reasonable periodic examination of

the interior and exterior of the premises, if a request is made by representatives of the County Assessor, State Office of Historic Preservation Department of Parks and Recreation, the State Board of Equalization, and/or the City's Community Development Director or his or her designee to determine the owner's compliance with the Preservation Agreement. No Preservation Agreement may be cancelled without compliance with Government Code Section 50280 et seq.

Section 14. The City Council shall establish fees for the processing of applications for Preservation Agreements and other matters required by the Mills Act Pilot Program, as legally permissible by State and local law.

Section 15. The record of proceedings for establishment of the City's Mills Act Pilot Program is maintained by the City as part of the official records of the Community Development Department at 1400 Highland Avenue, Manhattan Beach, California, 90266.

Section 16. A Mills Act Pilot Program is hereby established based on the parameters included in this resolution to implement the State of California Mills Act in the City of Manhattan Beach on a trial basis.

Section 17. The City Clerk shall certify to the adoption of the Resolution and shall cause the Resolution and his certification to be entered in the Book of Resolutions of the Council of the City.

WAYNE POWELL
Mayor of the City of
Manhattan Beach, California

ATTEST:

(SEAL)
LIZA TAMURA
City Clerk

DRAFT

Agenda Date: 6/17/2014

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, Acting City Manager

FROM:

Richard Thompson, Community Development Director

Laurie Jester, Planning Manager

Angelica Ochoa, Assistant Planner

SUBJECT:

Status Report on the Mills Act - A Preservation Program for Historic Properties (Community Development Director Thompson).

DISCUSS AND PROVIDE DIRECTION

RECOMMENDATION:

Staff recommends that the City Council receive the status report on the Mills Act Program, discuss and provide further direction.

FISCAL IMPLICATIONS:

Adoption of the Mills Act Program will require additional staff time and resources from the Community Development Department, and impact work load in the Department. Administration of the ordinance would involve the following: completing an inventory of eligible properties, processing of applications including Commission review, preparing and enforcing each contract with each property owner and reviewing and approving any proposed alterations to the eligible properties during the term of the contract.

BACKGROUND:

Since September 2006, the Culturally Significant Landmark ordinance has been in effect under Title 10 Chapter 10.86 of the Manhattan Beach Municipal Code regarding the designation of culturally significant landmarks. A local task force comprised of voluntary members from the community was formed in 2006 to increase public awareness and community appreciation of Manhattan Beach's unique heritage. The task force, named the Manhattan Beach Cultural Heritage Conservancy is headed by Jan Dennis, a local historian. This group has been actively researching potential historic properties throughout the City to designate as Cultural Significant Landmarks. To date, the City of Manhattan Beach has designated 18 properties as Culturally Significant Landmarks through the efforts of the

Manhattan Beach Cultural Heritage Conservancy. Two properties have been accepted by the State Historic Preservation Office to be listed in the California Register of Historical Resources.

On July 12, 2006, the Planning Commission considered the proposed Cultural Significant Landmark ordinance and adopted Resolution No. PC 06-08 recommending the City Council adopt it. The City Council held public hearings on August 15, 2006 and September 5, 2006 and adopted Ordinance No. 2089 to recognize Culturally Significant Landmark properties in the City of Manhattan Beach. At that time, the Mills Act costs and benefits were discussed by the Planning Commission and City Council. The benefits to the property owners are the financial incentives since the Mills Act provides a reduction in property taxes. The benefit to the City is the preservation of a historic structure. The staff report and minutes are attached as Attachment A.

On May 17th, 2011 and June 7, 2011 (Attachment A), the City Council reviewed amendments to the Culturally Significant Landmark Ordinance to remove the need for a required public hearing for designating properties cultural significance. The current Culturally Significant Landmark Ordinance No. 2143 (Attachment B) only acknowledges and designates properties of historical and/or cultural significance but does not prevent the ability to alter or demolish a designated property. Properties may only be nominated by the property owner. The criteria on determining designation include architectural significance, association with local significant events, association with a significant designer and unique locations which are associated with the City.

DISCUSSION:

The following is a discussion on the introduction of the Mills Act Program, how it will impact properties and the future of preserving historical properties in the City of Manhattan Beach.

Mills Act Program

State law provides for voluntary restrictions on historically significant properties in exchange for reduced property tax. The legislation known as the "Mills Act" (Government Code section 50280 et seq.) requires that local governments adopt a local ordinance establishing historical criteria (or adopting State or Federal standards) and authorizes the City to enter into contracts with property owners meeting those criteria. The contracts would limit an owner's ability to replace or alter the appearance of the property during the term of the contract which must be for a minimum of 10 years. The contract must be binding on the future owners and heirs of the property and must be recorded. The agreement would entitle the property owner to a lower valuation for property tax purposes during the term of the agreement. Participation from the property owner to enter into a contract through the Mills Act is strictly voluntary.

Other Cities (Attachment C)

Other Southern California cities, including the City of Redondo Beach, Hermosa Beach and Pasadena have adopted historic preservation ordinance such as the Mills Act Program. The City of Redondo Beach adopted the Mills Act Program in 1992 and the Program is regulated under the City's Preservation Commission. The Preservation Commission's goal is to promote awareness and use of the Mills Act as an incentive for the preservation of local

historic buildings. One Planner spends 25 to 35% of their time handling historic preservation, plus additional staff and other resources are required for the Preservation Commission, additional Planning Commission review and other related responsibilities.

The City of Hermosa Beach established their historic preservation program in 1998. The program is voluntary and encourages property owners to voluntarily apply for landmark status. The City Council must approve the alteration of a designated landmark or potential landmark through a Certificate of Appropriateness on the list of historic resources established by City Council. An outside consultant reviews the modification to ensure changes meet the historical guidelines. The City Council has designated 28 properties in the City of Hermosa Beach. Three commercial buildings, since 2009, have been designated and protected under the City's Historic Resources Preservation Ordinance.

The City of Pasadena established a historical ordinance in 1992 under the Mills Act Program. Property owners enter into contracts with the City and any alterations to the historic property must follow the Secretary of the Interior's Standards. The City approves up to six contracts per year for multi-family or commercial/industrial properties and up to twenty contracts per year for single family residential properties for historic designation. The program is administered through the Planning and Community Development Department under the Design and Historic Preservation Section.

Manhattan Beach Cultural Heritage Conservancy (Attachment D)

The Manhattan Beach Cultural Heritage Conservancy is requesting that the City Council consider adopting the Mills Act in the City. They feel that the current program does not protect or preserve potential historic properties and that the City of Manhattan Beach is losing its history and not maintaining the original character of the community. They will be making a presentation this evening on the Mills Act along with the Los Angeles Conservancy organization.

CONCLUSION:

Staff is requesting that the City Council provide direction on the further study of the Mills Act Program and the possible adoption of an ordinance in the future.

Attachments:

Attachment A- City Council Staff Reports and Minutes from August 15, 2006, September 5, 2006, May 17th, 2011, and June 7, 2011

Attachment B- Culturally Significant Landmark Ordinance No. 2143

Attachment C- Other Cities Historic Documentation

Attachment D- Manhattan Beach Cultural Heritage Conservancy Documentation

City of Manhattan Beach

1400 Highland Avenue
Manhattan Beach, CA 90266



Meeting Minutes - Final

Tuesday, June 17, 2014

6:00 PM

Regular Meeting

City Council Chambers

5:00 PM Adjourned Regular Meeting - Closed Session

City Council

Mayor Amy Howorth
Mayor Pro Tem Wayne Powell
Councilmember Mark Burton
Councilmember Tony D'Errico
Councilmember David J. Lesser

PLEASE NOTE THAT THE CITY ARCHIVES THE VIDEO RECORDINGS OF ALL REGULAR CITY COUNCIL MEETINGS, AND THE VIDEO FOR THIS MEETING IS HEREBY INCORPORATED BY THIS REFERENCE. FOR A COMPLETE RECORD OF THIS CITY COUNCIL MEETING, PLEASE GO TO www.citymb.info/city-officials/city-clerk/city-council-meetings-agendas-and-minutes

A. PLEDGE TO THE FLAG

Curran Hedges, Mayor for the Day, led the Pledge of Allegiance.

B. ROLL CALL

Present: 5 - Mayor Howorth, Mayor Pro Tem Powell, Councilmember Burton, Councilmember D'Errico and Councilmember Lesser

C. CERTIFICATION OF MEETING NOTICE AND AGENDA POSTING

City Clerk Liza Tamura confirmed that the meeting was properly posted.

D. APPROVAL OF AGENDA AND WAIVER OF FULL READING OF ORDINANCES

A motion was made by Councilmember Burton, seconded by Mayor Pro Tem Powell, to approve the agenda and waive full reading of ordinances.. The motion carried by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

E. CEREMONIAL CALENDAR

1. Recognition of Curran Hedges as Mayor for the Day. **14-0289**
PRESENT

Mayor Howorth, on behalf of the City Council, recognized Curran Hedges as the Mayor for the Day and presented him with a certificate and a City pin.

2. Presentation of a Certificate of Recognition to Jeff Nicosia for his Services to the Beach Cities Sports (BCS) Youth Flag Football Program. **14-0270**
PRESENT

Mayor Howorth introduced Parks and Recreation Director Mark Leyman to recognize Mr. Jeff Nicosia for his accomplishments in Beach Cities Sports (BCS) Youth Flag Football.

Mayor Howorth, on behalf of the City Council, presented Mr. Nicosia with a certificate and a City pin.

3. Presentation of a Certificate by Southern California Edison and the South Bay Cities Council of Governments to Recognize the City of Manhattan Beach's Achievement of Rising to the Energy Leader Platinum Level, Representing Significant Electricity Savings in Energy and Energy Efficiency Education for the Community. **14-0278**

PRESENT

Mayor Howorth introduced Marilyn Lyon from SBCCOG who presented a commendation to the City for reaching the highest level of the Energy Leader Program. Ron Garcia of Southern California Edison congratulated the City Council for achieving the Platinum Level for conserving energy, being one of only four cities that Southern California Edison services, that has attained this level..

4. Presentation of a Commendation to the Mira Costa High School Music Department for Being Recognized as a GRAMMY Signature School by the GRAMMY Foundation. **14-0133**

PRESENT

This item was delayed until after the City Council Announcements awaiting the arrival of members of the Mira Costa Choir.

F. CITY MANAGER REPORT

Acting City Manager Bruce Moe gave a brief report regarding the Downtown Specific Plan, 900 Club, and Shade Hotel.

Councilmember Burton commended Acting City Manager Moe for his hard work and encouraged him to apply for Assistant City Manager, should the job be created.

Acting City Manager Moe commented on the LA Kings Parade occurring the following day.

G. CITY ATTORNEY REPORT

None.

H. CITY COUNCIL ANNOUNCEMENTS AND REPORTS

Mayor Howorth spoke of the passing of a member of the community, David Wachtfogel, and requested those present to participate in a moment of silence to honor him.

Mayor Pro Tem Powell announced the Dine and Discover lunch for the older community occurring later in the week.

Councilmember D'Errico reminded the audience of the downtown sidewalk sale occurring later in the month.

Councilmember Lesser announced a "map your neighborhood" program, which helps residents prepare for disasters.

Mayor Pro Tem Powell commended the Kings on their Stanley Cup Championship.

4. Presentation of a Commendation to the Mira Costa High School Music Department for Being Recognized as a GRAMMY Signature School by the GRAMMY Foundation. **14-0133**

PRESENT

Mayor Howorth, on behalf of the City Council, recognized the Mira Costa High School Music Department for being one of three high schools in the country to win the Grammy Signature Gold Award.

The Mira Costa Vocal Ensemble sang the Star Spangled Banner.

City Council commended the choir.

I. COMMUNITY ANNOUNCEMENTS REGARDING UPCOMING EVENTS

Tom Allard, representing the Senior Advisory Community and the Older Adult Program, invited the City Council to the ribbon cutting ceremony for the new petanque court.

Viet Ngo announced a meeting for the Anti-Corruption Advocacy group the following day, and remarked that the Kings should pay for the parade, not taxpayers.

Julliane Catts, President of the South Bay Bicycle Coalition, shared information on a bike friendly business program.

Don Gould, Manhattan Beach Library, spoke regarding summer reading and announced that an opera singer will be at an event at the Lawndale Library on June 21, 2014, at 2:00 PM.

J. PUBLIC COMMENT ON NON-AGENDA ITEMS

Nate Hubbard provided an update on negotiations between residents and the Shade Hotel.

Avigal Horrow, from 1736 Family Crisis Center, started to speak regarding budgetary allocations, but was told to wait until this agenda item was discussed.

David Denelle spoke regarding a program called Car2Go and expressed concern for cars being "dropped off" in his neighborhood.

Viet Ngo spoke of alleged conspiracy and misappropriation of public funds.

Robert Bush spoke about the LA Kings playoff performances, and spoke out against Deutsche Bank.

Katie David is disappointed seeing more office spaces constructed at the expense of the local businesses and wants to keep business local.

Paul Gross spoke in favor of the mall and asked that the City Council not block the project based on a vocal minority of residents who do not want change.

Gerry O'Connor spoke in favor of summary minutes.

K. CONSENT CALENDAR

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Lesser, to approve the Consent Calendar with the exception of 5, 8, 9, and 12. The motion carried by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

6. Award of Bid to the Armored Group, LLC for the Budgeted Purchase of One Law Enforcement Tactical Vehicle in the Amount of \$184,000 (Acting City Manager Moe). **14-0244**

APPROVE; APPROPRIATE

The recommendation for this item was approved on the Consent Calendar.

7. Award of Bid to Verde Inc. for the Budgeted Purchase of One Replacement DUI (Driving Under the Influence) Checkpoint Trailer in the Amount of \$27,617.55 (Acting City Manager Moe). **14-0245**

APPROVE

The recommendation for this item was approved on the Consent Calendar.

10. Agreement for Additional Services Not-to-Exceed \$5,000 with Messina and Associates for Team Building, Career Counseling, and Succession Planning Development (Fire Chief Espinosa). **14-0285**

APPROVE

The recommendation for this item was approved on the Consent Calendar.

11. Revised Salary Ranges for the Part-Time Recreation Leader I and Recreation Leader II Positions Due to a Mandated Increase in the State of California's Minimum Wage (Human Resources Director Hanson). **14-0280**

APPROVE

The recommendation for this item was approved on the Consent Calendar.

L. PUBLIC HEARINGS

13. Fiscal Year 2014-2015 Operating Budget (Acting City Manager Moe). **RES 14-0038**
CONDUCT PUBLIC HEARING, ADOPT RESOLUTION NO. 14-0038

Acting City Manager Bruce Moe requested items 13 and 14 be considered together and gave a presentation regarding this item.

Discussion followed between the City Council and Acting City Manager Moe as he responded to questions regarding the adoption of Fiscal Year 2014-2015 Operating Budget.

Mayor Howorth opened the floor for public comment.

Fyllis Kramer spoke in support of the consolidation of part-time Dial-A-Ride drivers to a single full-time driver.

Avigal Horrow, from 1736 Family Crisis Center, spoke regarding the removal of budgetary allocation for the 1736 Family Crisis Center, and outlined her case for funding from the City of Manhattan Beach, providing examples of the assistance the 1736 Family Crisis Center provides.

Viet Ngo alleged misappropriation of federal funds, and alleged criminal activity.

City Council followed up with Acting City Manager Moe about allegations brought by Mr. Ngo.

Gary McAully, Manhattan Beach Historical Society, spoke regarding digitalization of historic newspaper archive.

Bill Victor spoke in support of finding funds for 1736 Family Crisis Center and questioned the addition to the budget to compensate for the \$9 minimum wage when it will not affect any employees.

Gerry O'Connor expressed concern over the escalation of salary costs and suggested annual performance reviews of staff.

Seeing no further requests to speak, Mayor Howorth closed the floor to public comment.

Further discussion continued and Acting City Manager Moe repounded to Councilmembers questions, and the role of the budget in planning.

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Burton, to adopt Resolution 14-0038, approving Fiscal Year 2014-2015 Operating Budget with the following adjustments:

Full-time Traffic Engineer position and the Dial-A-Ride full-time driver, but freezing these position until such a time as the City Manager has time to review them.

Remove \$37,000 for Legislative Advocacy, the \$48,000 allocated for the Term-Limit Election, and the line-item for staff raises, subject to City Council approval.

At the request of Acting City Manager Moe, clarification of the motion was given.

The City Council asked for clarification regarding the raises provided for in the budget, and discussed the issue of raises and process of approving, and the location of funds, if this item is removed.

Mayor Pro Tem Powell amended his original motion, seconded by Mayor Howorth, to adopt Resolution 14-0038, approving Fiscal Year 2014-2015 Operating Budget with the following adjustments:

Adding back the Full-time Traffic Engineer, the Dial-A-Ride full-time driver, and Graphic Design Artist, but frozen until such a time as the new City Manager has time to review them.

Remove \$37,000 for Legislative Advocacy, and the \$48,000 allocated for the Term-Limit Election.

Keeping the line-item for staff raises, subject to City Council approval.

Discussion arose surrounding the change in the motion.

A motion was made by Mayor Pro Tem Powell, seconded by Mayor Howorth, to adopt Resolution 14-0038, approving Fiscal Year 2014-2015 Operating Budget with the following adjustments:

Adding back in the full-time Traffic Engineer, the Dial-A-Ride full-time driver, and Graphic Design Artist, but frozen until such a time as the new City Manager has time to review them.

Remove \$37,000 for Legislative Advocacy, and the \$48,000 allocated for the Term-Limit Election.

Keeping the line-item for staff raises, subject to City Council approval.

A friendly amendment was proposed by Councilmember Burton to remove the \$48,000 allocated for the term-limit election contingent upon a decision to change the election from November to March, and was accepted by Mayor Pro Tem Powell.

And a further friendly amendment that the allocation for staff raises is frozen until such time as the City Manager briefs City Council on a comprehensive pay plan.

Further discussion arose surrounding the allocation for staff raises.

A further amendment was proposed by Councilmember Burton to freeze the allocation for staff raises until the City Manager briefs the City Council conceptually on a comprehensive pay plan.

A motion was made by Mayor Pro Tem Powell, seconded by Mayor Howorth, to adopt resolution 14-0038, approving Fiscal Year 2014-2015 Operating Budget with the following adjustments:

Add full-time Traffic Engineer, the Dial-A-Ride full-time driver, and Graphic Design Artist, but frozen until such a time as the new City Manager has time to review them.

Remove \$37,000 for Legislative Advocacy, and the \$48,000 allocated for the Term-Limit Election.

Keeping the line-item for staff raises, subject to City Council approval.

Removal of the \$48,000 allocated for the Term-Limit Election contingent upon a decision to change the election from November to March.

Allocation for staff raises is frozen until such time as the City Manager briefs City Council on a comprehensive pay plan.

The motion carried by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

- 14. Public Hearing and Adoption of Fiscal Year 2014-2015 Operating Budget: Appropriation (Gann) Limit (Acting City Manager Moe).**

RES 14-0037

**CONDUCT PUBLIC HEARING; ADOPT RESOLUTION NO. 14-0037
AS PART OF THE OPERATING BUDGET**

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Burton, to adopt Resolution 14-0037 establishing an appropriation (Gann) limit for Fiscal Year 2014-2015 as part of the Operating Budget. The motion carried by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

Acting City Manager Moe thanked his staff for all their work on the Operating Budget, especially Controller Henry Mitzner and Budget Analyst Eden Serina.

At 8:30 PM the City Council recessed and reconvened at 8:41 PM with all Councilmembers present.

15. Consideration of the Fiscal Year 2015-2019 Capital Improvement Plan (Public Works Director Olmos). **RES 14-0039**

CONDUCT PUBLIC HEARING; ADOPT RESOLUTION NO. 14-0039

Public Works Director Tony Olmos gave a staff presentation following up on specific items regarding the Capital Improvement Plan. Public Works Director Olmos and Traffic Engineer Eric Zandvliet responded to Councilmember questions.

Mayor Howorth opened the floor for public comment.

Denni Smith spoke against putting a signal at Highland Avenue and 38th Street.

Craig Cadwallader spoke in favor of doggie potties to keep the beach clean.

Gerry O'Connor does not see the need for the flashing lights at the pier and would also like to see some improvement done to the "Welcome to Manhattan Beach" sign near the proposed Manhattan Beach Boulevard median.

Seeing no further requests to speak, Mayor Howorth closed the floor to public comment.

Discussion continued and Public Works Director Olmos and Traffic Engineer Zandvliet responded to Councilmembers questions.

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Burton, to adopt Resolution 14-0039 approving the Fiscal Year 2015-2019 Capital Improvement Plan with adjustment that one project be renamed from "Install Traffic Signal" to "Investigate and Potentially Install Crossing Devices". The motion carried by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

Public Works Director Olmos thanked all the departments who helped assemble the Capital Improvements Plan.

M. GENERAL BUSINESS

17. Approve Pedestrian Enhancements at the Intersection of Ardmore Avenue and Flornoy Road as Recommended by the Parking and Public Improvements Commission *(Continued from June 3, 2014, City* **14-0247**

Council Meeting) (Community Development Director Thompson).

APPROVE

This item was heard after Item 15.

Acting City Manager Bruce Moe introduced City Traffic Engineer Erik Zandvleit who provided a PowerPoint presentation and then responded to Councilmembers questions.

Mayor Howorth opened the public comment.

Emmee Sarmiento, co-petitioner to this item, voiced her concerns and the need for pedestrian improvements at this intersection.

Gary McAully voiced his opinion regarding this item, thinks the onus is on both the pedestrians and drivers.

Joe Galliani cited fatality rates at various speeds.

Gerry O'Connor thinks that the fatality rate being represented by vehicle speed is grossly oversimplified.

Amy Brantley, co-petitioner to this item, spoke regarding slowing the speed limit on Ardmore Avenue.

Seeing no further requests to speak, Mayor Howorth closed the floor to public comment.

The City Council deliberated the merits of this item.

A motion was made by Councilmember Burton to install a stop sign at the intersection of Ardmore and Flournoy.

The motion failed for lack of a second.

A motion was made by Councilmember Lesser, seconded by Mayor Pro Tem Powell, to explore further calming measures on Ardmore to slow traffic down.

Councilmember D'Errico proposed a friendly amendment to have a date certain to review the impact of the traffic calming measure, and then make a decision whether to proceed with different measures.

City Council posed questions to Traffic Engineer Zandvleit regarding the feasibility and timetable relating to Councilmember D'Errico's friendly amendment.

Mayor Pro Tem Powell proposed a friendly amendment to the friendly amendment to have a program to see if these measures work. After, have an evaluation to determine whether the speed can be lowered, or the stop sign needs to be installed.

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Burton, to continue this item, and retain jurisdiction over this matter and to void any appeal fees. The motion carried by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

- 18.** Status Report on the Mills Act - A Preservation Program for Historic Properties (Community Development Director Thompson).

14-0267

DISCUSS AND PROVIDE DIRECTION

Acting City Manager Bruce Moe introduced Assistant Planner Angelica Ochoa, who provided a staff PowerPoint presentation on the Mills Act.

Jan Dennis spoke briefly regarding the Mills Act and urged its passing.

Jane Guthrie further explained the Mills Act and how it works.

Jan Ostashay, Historic Preservation Consultant, also contributed information regarding the Mills Act.

Mayor Howorth opened the floor for public comment.

Gary McAully urged City Council to preserve the small beach town character of Manhattan Beach.

Gerry O'Connor stands behind approving a Mills Act Ordinance.

Jan Ostashay, Historic Preservation Consultant, spoke about the local control over this program, and benefits other cities have seen.

Martha Andreani sees the need for historic preservation in Manhattan Beach.

Seeing no further requests to speak, Mayor Howorth closed the floor to public comment.

Discussion followed between members of the City Council regarding this item, the shortcomings of the present system, and the costs to the city that would be incurred.

A motion was made by Councilmember Lesser, seconded by Mayor Pro Tem Powell, to direct the City Attorney to return with a draft Mills Ordinance along with a staff report that quantifies with real numbers how much staff time would be involved, how the data that has already been collected by the Manhattan Beach Cultural Heritage Conservancy could be utilized, save staff time, and provide the full picture.

Mayor Pro Tem Powell offered a friendly amendment that there be a date certain as to when it returns to the City Council. Councilmember Burton proposed 90 days.

Questioned by City Council over the timing viability, City Attorney Barrow indicated his firm had just finished this process with the City of Beverly Hills, and he indicated this would not take very long. However, the staff costs calculations he would defer to Community Development Director Thompson.

A friendly amendment was offered by Councilmember Burton that this motion should amend the existing ordinance, which was accepted by Councilmember Lesser.

The motion made by Councilmember Lesser, seconded by Mayor Pro Tem Powell, to direct the City Attorney to return with a draft Mills Ordinance along with a staff report that quantifies with real numbers how much staff time would be involved, how the data that has already been collected by the Manhattan Beach Cultural Heritage Conservancy could be utilized to save staff time, and provide the full picture to be returned to City Council within a specific time limit, and also amending the existing ordinance. The motion carried by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

At 10:59 PM the meeting was recessed and reconvened at 11:05 PM with all Councilmembers present.

- 16.** Presentation on the Draft Mobility Plan (Community Development Director Thompson). **14-0177**

DISCUSS AND PROVIDE DIRECTION

The City Council deliberated timing constraints related to discussing this item at this time.

This item was continued to a soon-to-be-decided off-Tuesday Special City Council Meeting.

- 19.** Approve Contract with Partners in Policy Governance for Assistance in Implementing the Policy Governance Model in an Amount to Exceed \$98,000 (Strategic Planning and Policy Governance Subcommittee) **CON 14-0028**
APPROVE; APPROPRIATE \$98,000 FROM COUNCIL CONTINGENCY

Acting City Manager Bruce Moe introduced the item, which was presented by Councilmember D'Errico, who stated that the policy governance issue is solely a City Council matter, discussed management, styles and theories of governance, and the reason for the creation of policy governance.

Councilmember D'Errico introduced the RFP, the reasons for choosing one consulting firm over others, what is being committed to through this RFP, and the benefits that could be gained through this consulting.

Discussion ensued and Councilmember D'Errico responded to City Council questions.

Mayor Howorth opened the floor for public comment.

Martha Andreani believes policy is in place through ordinances, direction is in place through agendas, and doesn't understand the purpose of this proposal.

Scott King posed a question whether the amount includes expenses, which it does.

Viet Ngo alleged violations of laws by the City by not holding a competitive bid.

Gerry O'Connor spoke about the importance of implementing policy governance, wants City Council to focus more on policy, and leave day-to-day operations to staff.

Seeing no further requests to speak, Mayor Howorth closed the floor to public comment.

Discussion continued with all Councilmembers regarding the need to approve the contract at this time.

Mayor Pro Tem Powell clarified that the RFP was competitively bid and there were no

Brown Act violations.

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Lesser, to freeze any action, wait for the new City manager to come on board.

Discussion continued among the Councilmembers.

Mayor Pro Tem Powell made a motion to table.

A friendly amendment was made by councilmember Burton that 60 days after meeting with the City Manager to discuss the issue, City Manager Danaj return to City Council with a status report on where he is and what he thinks.

Councilmember Burton withdrew his friendly amendment.

City Attorney Quinn Barrow asked that the motion be clarified and make it a motion to continue.

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Lesser, that this item be continued until a later time. The motion carried by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

**20. Home Loan for New City Manager
APPROVE; APPROPRIATE**

14-0286

Acting City Manager Bruce Moe gave a presentation outlining this item.

Mayor Howorth opened the floor for public comment.

Gerry O'Connor voiced his concern that he does not understand what the collateral of the loan is, and wants to know which house has been purchased with this loan.

Acting City Manager Moe responded to questions.

Viet Ngo alleged misappropriation of public funds by the City Council by providing this loan.

Seeing no further requests to speak, Mayor Howorth closed the floor to public comment.

A motion was made by Councilmember Burton, seconded by Councilmember Lesser, to approve and appropriate per the recommendation in the staff report.

Councilmember Lesser inquired about requirements about which records regarding this loan would become public documents, and City Attorney Barrow responded.

A motion was made by Councilmember Burton, seconded by Councilmember Lesser, to approve and appropriate per the recommendation in the staff report. The motion carried by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

21. Consideration of a Resolution Approving an Amending to a Legal Services Agreement with Richards, Watson & Gershon for City Attorney Services to Designate Quinn M. Barrow as City Attorney and to Increase the Monthly Rate for General Services to \$24,000 (Acting City Manager Moe).

RES 14-0043

ADOPT RESOLUTION; APPROVE AGREEMENT

Acting City Manager Bruce Moe provided the staff presentation.

Discussion arose between the City Council and City Attorney Barrow regarding this item, and the difference between having an in-house and contracted-for City Attorney.

Mayor Howorth opened the floor for public comment.

Craig Cadwallder commended the City Attorney and his firm for their outstanding work.

Viet Ngo alleged conspiracy and corruption on the part of the City Council and City Attorney Barrow.

Diane Wallace agrees with Mr. Cadwallder for the outstanding job the Legal Department has provided to the city.

Gerry O'Connor would like a better measurement on the success of using outside contracted legal services.

Seeing no further requests to speak, Mayor Howorth closed the floor to public comment.

A motion was made by Councilmember Burton, seconded by Councilmember Lesser, to adopt the resolution and approve the agreement per the staff report.

Members of the City Council stressed the need for specialized knowledge that a firm offers, and commended City Attorney Barrow for his work.

A motion was made by Councilmember Burton, seconded by Councilmember Lesser, to adopt the resolution and approve the agreement per the staff report. The motion passes by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

N. ITEMS REMOVED FROM THE CONSENT CALENDAR

- 5.** Contract Amendment #1 with Iteris, Inc. and Appropriate a **CON 14-0030**
Not-to-Exceed amount of \$21,000 from the General Fund for
Additional Services to Complete the Mobility Plan Update (Community
Development Director Thompson).
APPROVE AND APPROPRIATE

Acting City Manager Bruce Moe stated that, since the Mobility Plan has been continued, this item should be continued as well.

Gerry O'Connor had pulled the item and remarked that his complaint dealing with this item is contract management. Contracts should not be overspent and the City Council should not continue to approve additional expenditures on already negotiated contracts.

Members of the City Council discussed the merits of expanding a contract, and the practice of providing additional funding to contract where the original scope has been exceeded.

A motion was made by Councilmember Burton, seconded by Councilmember Lesser, to continue this item. The motion passed by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

8. Ordinance No. 14-0008 Prohibiting Smoking in Public Places and Regulating Electronic Cigarettes (Public Works Director Olmos).
ADOPT ORDINANCE NO. 14-0008

ORD 14-0008

This item was pulled by Viet Ngo.

Viet Ngo alleges that this ordinance is passed based on lobbying by private interests, and that the City Council has no authority to regulate E-cigarettes.

Mayor Howorth opened the floor for public comment.

Bill Victor remarked that the City Council should provide coffee at the minimum to those in attendance to help them stay awake, especially since important measures are discussed late at night.

Seeing no further requests to speak, Mayor Howorth closed the floor to public comment.

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Lesser, that Ordinance 14-0008 Prohibiting Smmoking in Public Places and Regulating Electronic Cigarettes be adopted.

Councilmember D'Errico expressed disappointment that the City Council did not discuss this measure with the business community in detail, and asked regarding hardship petitions.

Discussion followed regarding enforcement, and business related hardships being created.

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Lesser, that Ordinance 14-0008 Prohibiting Smmoking in Public Places and Regulating Electronic Cigarettes be adopted. The motion carried by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

9. Award of Contract to Teri Black & Company for Community Development Director Recruitment Services; Appropriation of \$24,750 from the General Fund Available Fund Balance (Acting City Manager Moe).

CON 14-0029

APPROVE AND APPROPRIATE

This item was pulled by Viet Ngo, who later decided he no longer wished to discuss this item.

Mayor Howorth opened the floor for public comment.

Seeing no requests to speak, Mayor Howorth closed the floor to public comment.

A motion was made by Councilmember Lesser, seconded by Councilmember Burton, to award the contract to Terri Black & Company and appropriate the money for the Community Development Director Recruitment Services. The motion carried by the following vote:

Councilmember Lesser stated for public record that the incoming City Manager wanted this recruitment, and has addressed his concerns regarding costs.

A motion was made by Councilmember Lesser, seconded by Councilmember Burton, to award the contract to Terri Black & Company for the Community Development Director recruitment services. The motion carried by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

12. Minutes:

14-0273

This item contains action minutes of City Council meetings which are presented for approval. Staff recommends that the City Council, by motion, take action to approve the action minutes of the:

- a) City Council Adjourned Regular Meeting-Budget Study Session No. 1 of May 8, 2014
 - b) City Council Adjourned Regular Meeting-Closed Session of May 12, 2014
 - c) City Council Adjourned Regular Meeting-Budget Study Session No. 2 of May 12, 2014
 - d) City Council Adjourned Regular Meeting-Budget Study Session No. 3 of May 21, 2014
 - e) City Council Adjourned Regular Meeting-Closed Session of May 29, 2014
 - f) City Council Adjourned Regular Meeting-Budget Study Session No. 4 of May 29, 2014
 - g) City Council Special City Council Meeting-Closed Session of June 10, 2014
- (City Clerk Tamura).

APPROVE

This item was pulled from the Consent Calendar by Gerry O'Connor.

Gerry O'Connor contended that bundling the minutes together is counter-productive.

Mayor Howorth opened the floor for public comment.

Bill Victor commented on the quality of the minutes.

Seeing no further requests to speak, Mayor Howorth closed the floor to public comment.

A motion was made by Councilmember Lesser, seconded by Mayor Pro Tem Powell to accept the minutes. The motion passed by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

O. OPTIONAL ADDITIONAL PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

P. OTHER COUNCIL BUSINESS, COMMITTEE AND TRAVEL REPORTS, FUTURE DISCUSSION ITEMS

Mayor Howorth announced that the following weekend she will be attending the US Conference of Mayors, and will report back after the event.

A motion was made by Councilmember Burton, seconded by Mayor Pro Tem Powell, to place an item on the July 1, 2014 Agenda to discuss the Resolution regarding term limits and changing the election from November to March, and requesting that the City Clerk keep the time for submitting arguments on this issue open until after July 1st, as well as extending the time period for the impartial analysis to be submitted.

The matter was placed on the next agenda.

No vote was taken.

- 22. Take a Position in Opposition to AB 2145 (Bradford) - Electricity: 14-0293**
Community Choice Aggregation (Acting City Manager Moe).
OPPOSE

Acting City Manager Bruce Moe provided the staff presentation regarding this item and states staff recommended position in opposition to the bill.

Discussion arose between members of the City Council and Environmental Programs Manager Sona Coffee regarding this agenda item.

Mayor Howorth opened the floor for public comment.

Joe Galliani, explained the confusion between the status quo and the changes that would occur if AB 2145 passed.

Dempsey Nelson spoke in support of opposition to this bill.

Bill Victor supports the staff recommended position in opposition to AB 2145.

Craig Cadwalder referred to an application created by Southern California Edison showing, in real time, all outages in their service area. Encourages the city write in opposition to AB 2145.

Diane Wallace spoke in support of opposing AB 2145.

Scott King spoke in favor of opposing AB 2145, and the positive effects it could have.

Jackie May remarked hearing similar arguments regarding telephone deregulation.

Gerry O'Connor brought up concerns regarding process and stated that he is in support of opposing AB 2145.

Seeing no further requests to speak, Mayor Howorth closed the floor to public comment.

Members of the City Council further discussed their positions and confusion regarding what is being asked of them tonight.

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Lesser, to accept the recommendation to oppose AB 2145.

Discussion arose between members of the City Council regarding what classifies a direct financial impact to the City's residents, and concerns held by Councilmembers.

A motion was made by Mayor Pro Tem Powell, seconded by Councilmember Lesser, to accept the recommendation to oppose AB 2145. The motion carried by the following vote:

Aye: 5 - Howorth, Powell, Burton, D'Errico and Lesser

Q. RECEIVE AND FILE ITEMS

Mayor Pro Tem Powell made a motion, seconded by Councilmember Lesser, that Item Nos. 23 and 24 be Received and Filed.

23. Financial Reports: 14-0262
Schedule of Demands: June 5, 2014 (Acting City Manager Moe).
RECEIVE AND FILE

24. Commission Minutes: 14-0272
This item contains minutes of City Council subcommittees and other City commissions and committees which are presented to be Received and Filed by the City Council. Staff recommends that the City Council, by motion, take action to Receive and File the minutes of the:
a) Planning Commission Meeting of May 28, 2014
(Community Development Director Thompson)
b) Cultural Arts Commission Meeting of May 13, 2014
(Parks and Recreation Director Leyman)
RECEIVE AND FILE

R. ADJOURNMENT

At 1:40 AM, the June 17, 2014, Regular City Council Meeting adjourned to the 4:30 PM Adjourned Regular Meeting (Closed Session) on July 1, 2014, in the City Council Chambers at Manhattan Beach City Hall.

Matthew Cuevas
Recording Secretary

Amy Thomas Howorth
Mayor

ATTEST:

Liza Tamura
City Clerk

Chapter 10.86 - CULTURALLY SIGNIFICANT LANDMARKS

Sections:

10.86.010 - Purpose.

It is the intent and purpose of the Manhattan Beach City Council in passing this chapter to:

- A. Safeguard the City's heritage by encouraging the recognition and voluntary protection of landmarks representing significant elements of the City's history and culture;
- B. Foster civic and neighborhood pride and a sense of identity based on appreciation of the City's past;
- C. Strengthen the economy of the City by identifying and recognizing historical and cultural landmarks which may be of interest to both residents and visitors.

(§ 2 (part), Ord. 2089, eff. October 5, 2006)

10.86.020 - Definitions.

As used in this chapter:

"Architectural appearance" means the architectural character and general composition of the structure, including, but not limited to, the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.

"Architectural significance" means any structure which embodies a particular architectural style or is a distinctive example of a particular school of architectural design or represents the work of an important architect.

"Community" means the City of Manhattan Beach and surrounding environs.

"Council" means the City Council of the City of Manhattan Beach.

"Demolition" means any act or process that destroys in part or in whole a landmark, proposed landmark, monument or point of interest.

"Landmark" means a property or structure designated as a "landmark" by resolution of the City Council, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration, and preservation because of its historic and/or architectural significance to the City.

"Owner of record" means the person, corporation, or other legal entity listed as owner on the records of the County Recorder of Deeds.

"Point of interest" means the site of a building, structure, or object which no longer exists but which was associated with historic events or important persons or embodied a distinctive character or architectural style; or has historic significance but has been altered to the extent that the integrity of the original workmanship, materials, or style has been substantially compromised; or is the site of a historic event which has no distinguishable characteristic other than that a historic event occurred there, and the site is not of sufficient historic significance to justify the establishment of a historic landmark.

"Publicly owned" shall mean a property which is owned by any governmental entity including, but not limited to, the City, School District, County, State, United States Government or any special district.

"Site" shall mean a location or place with or without associated structures or landscaping.

"Structure" means anything constructed or erected, the use of which requires permanent or temporary location on or in the ground.

(§ 2 (part), Ord. 2089, eff. October 5, 2006)

10.86.030 - Designation of culturally significant landmarks.

At the request of the owner of record the City Council of the City of Manhattan Beach may designate any privately owned property in the City as a culturally significant landmark pursuant to the criteria set forth in this chapter and issue a Certificate of Cultural Significance with regard to said property in recognition of its unique status in the community. Any Manhattan Beach resident may nominate a publicly owned property as a culturally significant landmark which shall then be reviewed according to the same procedure and criteria set forth in this chapter for privately owned properties.

(§ 2 (part), Ord. 2089, eff. October 5, 2006)

10.86.040 - Procedure for designation of culturally significant landmark.

The owner of record of any property (or, with regard to publicly owned properties, any Manhattan Beach resident) within City boundaries may apply to the Director of Community Development or his or her designee for that property to be designated as a culturally significant landmark on a form developed by the Community Development Department for the purpose. The application shall identify the property, shall contain a brief description of the site, building structure or significant horticultural development, the reasons why the site is considered culturally significant and a discussion of any request for signage memorializing the designation. A copy of any such application shall be forwarded to the Manhattan Beach Historical Society and Manhattan Beach Cultural Heritage Conservancy, or the current local historical group recognized by the City, which shall be invited to formally comment on the application. Within ninety (90) days of receipt of the application City staff shall schedule a public meeting by the City Council to consider any such application. The decision of the City Council shall be final with regard to any such application.

(§ 2 (part), Ord. 2089, eff. October 5, 2006, as amended by § 2, Ord. 2143, eff. July 7, 2011)

10.86.050 - Criteria for designation of a culturally significant landmark.

A. The City Council shall, upon such investigation as it deems necessary, make a determination as to whether a nominated property, site, structure, or area meets one (1) or more of the following criteria:

1. Its character, interest, or value as part of the development, heritage, or cultural characterization of the community;
2. Its identification with a person or persons who significantly contributed to the development of the community;
3. Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;
4. Its identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community;
- 5.

Its embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;

6. Its embodiment of design elements that make it structurally or architecturally innovative;
 7. Its unique location or singular physical characteristics that make it an established or familiar visual feature;
 8. Its suitability for preservation or restoration. Any structure, property, or area that meets one (1) or more of the above criteria shall also have sufficient integrity of location, design, materials, and workmanship to make it worthy of preservation or restoration;
 9. It shall have historic, aesthetic, or special character or interest for the general public and not be limited in interest to a special group or person;
 10. Its designation shall not infringe upon the rights of a private owner thereof to make any and all reasonable uses thereof which are not in conflict with the purposes of this chapter;
 11. It has been previously designated in the National Register at the State-wide or federal level of significance (including National Historic Landmarks) and is historic resource that is significant at a City, regional, State, or federal level, and is an exemplary representation of a particular type of historic resource.
- B. A culturally significant landmark designation may include significant public or semi-public interior spaces and features which otherwise meet the criteria set forth above.
- C. A culturally significant landmark may be a tree or other landscaping which shall qualify to be of historic or cultural significance and of importance to the community if it meets any one (1) of the following criteria:
1. It is one (1) of the largest or oldest trees of the species located in the City;
 2. It has historical significance due to an association with a historic event, person, site, street, or structure;
or
 3. It is a defining landmark or significant outstanding feature of a neighborhood.

(§ 2 (part), Ord. 2089, eff. October 5, 2006)

10.86.060 - Signage for culturally significant landmarks.

At the time the City Council approves the designation of a property or site as a culturally significant landmark, it may, at the owner's request approve signage for the site which memorialized its designation under this chapter. The size, presentation, content and location of any such sign shall be presented to the City Council at the time it considers designation of the property or site.

(§ 2 (part), Ord. 2089, eff. October 5, 2006)

10.86.070 - Effect of designation as a culturally significant landmark.

The designation of a property or site as a culturally significant landmark is an honorary designation only. Such designation shall have no effect upon the property rights of the owner of such property nor curtail alteration, development or demolition of such property.

(§ 2 (part), Ord. 2089, eff. October 5, 2006)

10.86.080 - Removal of designation as a culturally significant landmark.

The owner of a designated culturally significant site may, at any time, apply to have the designation removed. The property owner shall file a written statement with the Director of Community Development or his or her designee setting forth the reasons for the request for removal. Any such removal shall require an action by the City Council at a public meeting.

(§ 2 (part), Ord. 2089, eff. October 5, 2006, as amended by § 2, Ord. 2143, eff. July 7, 2011)

10.86.090 - Establishment of "Landmark Task Force."

The City Council may appoint a "Landmark Task Force" to advise on ways to preserve, celebrate and enhance the City's culturally significant landmarks. The Task Force's mission shall include, but not be limited to:

- A. Researching the availability of historical materials related to Manhattan Beach and creating an inventory list of possible sites, districts and structures;
- B. Researching funding sources for large and small scale historic preservation, restoration, renovation and identification projects;
- C. Providing educational opportunities to increase public awareness and appreciation of Manhattan Beach's unique heritage;
- D. Reviewing and commenting on proposed application for designation under this chapter.

Members of the Task Force shall be appointed by the City Council and must be electors of the City. The City Council shall establish the term and other criteria for appointment of said "Task Force."

(§ 2 (part), Ord. 2089, eff. October 5, 2006)

10.86.100 - Environmental impacts.

The purpose of the program established hereunder is to honor and recognize locally significant landmarks. However, the designation provided for in this chapter shall not be construed, by itself, to confer a level of significance sufficient that alteration or demolition of a designated property or site can be inferred to be a significant impact on the environment.

(§ 2 (part), Ord. 2089, eff. October 5, 2006)



Here are our notes to accompany Beverly Hill's Cultural Heritage Ordinance.

We have five main points to address, representing areas where BH's ordinance was tailored for that city and we don't recommend adopting those adaptations. There are annotations marks in the document that relate to the issues discussed in 1-5.

We also highlighted the BH name wherever it appears and any arbitrary dates that have no relevance in MB's ordinance.

1. Master architect list

BH decided to compile a master architect list, able to be updated (through their historic preservation consultant, Jan Ostashay). This list is referred to in particular for a review process that BH set up as a way to flag potentially significant properties and decide whether they merit protection through city-initiated landmark designation rather than being lost by inappropriate alteration or demolition.

A permit request for either is what triggers this review process. A review process set up to filter proposed alterations or demolitions is a very strong element to an ordinance, but tying it to a master architect list could be very limiting outside of a city like BH.

Additionally, the caveat is that, when you have a list, it has the unintended consequence of making things not on the list be treated as less than significant, even if that is not the case (for example, the Scott house—no master architect there, but still highly significant for MB).

We don't think a master architect list is necessary or a good thing for MB. And there is a better way to filter properties for review (the method in use by Santa Monica, based on local survey inventory, that we'll discuss in section 5).

2. Local landmark designation age eligibility

In 10-3-3212: BH decided to set an age threshold of 45, instead of 50 years, or older (though exceptional significance can be demonstrated if less than 45 years). We like this as it allows the nomination structures, including those from the postwar period and the entire decade of the 70's to qualify. And MB does have several important postwar resources. Plus that is about the time mansionization began in MB.

Of course, the Cultural Heritage Commission, with their recommendation vote, and City Council, with their final declaration, will be the final arbiters.

3. Local landmark designation criteria

The original MB ordinance as written in 2006 has a list of criteria that we still like and would like to keep.

“Criteria for designation of a culturally significant landmark.

A. The City Council shall, upon such investigation as it deems necessary, make a determination as to whether a nominated property, site, structure, or area meets one (1) or more of the following criteria:

1. It's character, interest, or value as part of the development, heritage, or cultural characterization of the community;
2. It's identification with a person or persons who significantly contributed to the development of the community;
3. It's embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;
4. It's identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community;
5. It's embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;
6. It's embodiment of design elements that make it structurally or architecturally innovative;
7. It's unique location or singular physical characteristics that make it an established or familiar visual feature;
8. It's suitability for preservation or restoration. Any structure, property, or area that meets one (1) or more of the above criteria shall also have sufficient integrity of location, design, materials and workmanship to make it worthy of preservation or restoration;
9. It shall have historic, aesthetic, or special character or interest for the general public and not be limited in interest to a special group or person;
10. It has been previously designated in the National Register at the Statewide or Federal level of significance (including National Historic Landmarks) and is a historic resource that is significant at a City, regional, State, or Federal level, and is an exemplary representation of a particular type or historic resource.

B. A culturally significant landmark may include significant public or semi-public interior spaces and features which otherwise meet the criteria set forth above.

C. A culturally significant landmark may be a tree or other landscaping which shall qualify to be of historic or cultural significance and of importance to the community if it meets any one (1) of the following criteria:

1. It is one (1) of the largest of oldest trees of the species located in the City;
2. It has historical significance due to an association with historic events, person, site, street, or structure; or
3. It is a defining landmark or significant outstanding feature or a neighborhood.”

4. Historic District designation

In 10-3-3213 A-1: the 70% threshold was tailored for BH and set a little higher. The standard is 60%. The higher the percentage/concentration of contributing structures for a proposed historic district, the harder it will be to achieve a potential district to submit for consideration. "Given MB's history of teardowns, we would recommend the 50% plus 1." (a quote attributed to the LA Conservancy.)

In 10-3-3213 A-2: the BH historic district designation criteria (like those for individual landmarks) have been adjusted to create 6 criteria and require that at least 2 be met.

We recommend amended Manhattan Beach's HP ordinance on historic district designation, satisfy one (1) or more of the criteria picked up from our previous ordinance.

10-1-930: CRITERIA FOR DESIGNATION OF HISTORIC DISTRICTS:

"Prior to any area being approved as a Historic District, the City Council shall find that a minimum of 50% plus 1 of the parcels of land in the proposed Historic District satisfy one (1) or more of the same criteria listed below, which criteria form the basis for designation of the proposed Historic District (picked up from the previous MB ordinance):

1. It's character, interest, or value as part of the development, heritage, or cultural characterization of the community;
2. It's identification with a person or persons who significantly contributed to the development of the community;
3. It's embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;
4. It's identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community;
5. It's embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;
6. It's embodiment of design elements that make it structurally or architecturally innovative;
7. It's unique location or singular physical characteristics that make it an established or familiar visual feature;
8. It's suitability for preservation or restoration. Any structure, property, or area that meets one (1) or more of the above criteria shall also have sufficient integrity of location, design, materials and workmanship to make it worthy of preservation or restoration;
9. It shall have historic, aesthetic, or special character or interest for the general public and not be limited in interest to a special group or person;
10. It has been previously designated in the National Register at the Statewide or Federal level of significance (including National Historic Landmarks) and is a historic resource that is significant at a City, regional, State, or Federal level, and is an exemplary representation of a particular type or historic resource."

5. Hold period for permits to alter or demolish

In 10-3-3218, this is the filter/review process I referenced in section 1 of our notes. The basis for this review is very strong, and enables the city to protect architecturally and/or culturally significant buildings even if they are not yet landmarked. Essentially, this process is a way for significant yet unprotected structures threatened with inappropriate alteration or demolition to be flagged by the city before any permits are given, and allows the city the chance to examine the merits of the building in depth and decide whether the structure warrants protection through local landmark designation that would be initiated by the city.

BH has created a filter that includes properties 45 years of age or older that ALSO were designed by an architect or designer on the city's master architect list (referenced in section 1 of my notes).

A more universal filter that we recommend, such as that in use by Santa Monica, sets an age threshold of 40 years of age or older and ties that to structures that have been identified as potentially eligible for local listing in the city's historic resource inventory (something that MB does not yet have—an official citywide survey).

(SM's ordinance language for their analogous filter/review may actually exist outside of their HP ordinance and be in a section dealing with general review process for application to demolish structures—we are trying to track that down for you).

Article 32. Historic Preservation

10-3-3201: TITLE:

This article shall be known as the *HISTORIC PRESERVATION ORDINANCE OF THE CITY OF BEVERLY HILLS*. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3202: DEFINITIONS:

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ADDITION: Any expansion or increase in floor area or height of a building or structure.

ALTERATION: Any physical modification or change to a building, structure, site, or object that may have a negative effect on character defining features of a historic resource. Alterations shall also include construction of additions but shall not include ordinary maintenance and repair.

ARCHAEOLOGICAL SITE: An area where remains of man or man's activities prior to keeping of history are still evident.

BUILDING: A structure that is created principally to house any form of human activity, such as a house, barn, church, hotel, or similar construction, including accessory structures, such as guesthouses, detached garages and sheds. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail, or a house and barn.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA): Collectively, Public Resources Code section 21000 et seq., and the state of California CEQA guidelines, 14 California Code Of Regulations 15000 et seq., as may be amended from time to time.

CALIFORNIA REGISTER OF HISTORICAL RESOURCES: The authoritative and comprehensive listing and guide to California's significant historical resources as defined in California Public Resources Code section 5020.1, as may be amended. Also referred to as the California register.

CERTIFICATE OF APPROPRIATENESS: A certificate issued to approve alteration, restoration, construction, removal, relocation in whole or in part, or demolition of a designated landmark or property within a historic district.

CERTIFICATE OF ECONOMIC HARDSHIP: A certificate authorizing work described in an accompanying certificate of appropriateness because of extreme financial privation or adversity and in accordance with the procedures and findings of this article.

CERTIFIED LOCAL GOVERNMENT: A local government that participates in the program authorized by the national historic preservation act of 1966 (16 USC section 470 et seq.) and the subsequent participatory agreement between the city and the state of California office of historic preservation.

CHARACTER DEFINING FEATURE: A prominent or distinctive aspect, quality, detail, or characteristic of a historic resource that contributes significantly to its physical character and historical significance. Such features may include, but are not limited to, landscaping, setbacks, massing, distinguishing aspects, roof attributes, architectural details, materials, moldings, sculptures, fountains, light fixtures, windows, doors, and monuments.

CITY OF BEVERLY HILLS REGISTER: A register containing those properties and geographical areas formally designated by the city council as landmarks or historic districts pursuant to the provisions of this article. The register also includes contributing properties within historic districts. Also referred to as the local register.

COMMISSION: The cultural heritage commission as defined in section 10-3-3207 of this chapter.

CONTRIBUTING PROPERTY: A property, including all buildings, structures, objects, and character defining features located on it that adds or contributes to the significance of a historic district under criteria set forth in this article.

DEMOLITION OR DEMOLISH: Any act or process that destroys in part or in whole an individual historic resource such that the historic character and character defining features of the property are completely removed and cannot be repaired or replaced. The terms demolition or demolish shall include, but are not limited to, the act of pulling down, destroying, removing, or razing a property, or commencing work thereof with the intent of completing the same.

DIRECTOR: The city's director of community development, or her/his designee.

DISTRICT: See definition of Historic District Or District.

ECONOMIC HARDSHIP: The facts and circumstances which establish that there are no feasible measures that can be taken which will enable the property owner to make a reasonable beneficial use of the property or derive a reasonable economic return from the property in its current form.

EXCEPTIONAL SIGNIFICANCE: A property having extraordinary importance under applicable evaluation criteria and context as defined in: "Criteria Consideration G: Properties That Have Achieved Significance Within The Last Fifty Years" in the "National Register Bulletin: How To Apply The National Register Criteria For Evaluation".

HISTORIC DISTRICT OR DISTRICT: A geographic area having a significant concentration, linkage, or continuity of sites, buildings, structures, objects, or character defining features united historically or aesthetically by plan or physical development that has been designated pursuant to this article.

HISTORIC RESOURCE: Historic property. A property determined to be a historic resource

under CEQA, NEPA, section 106 of the national historic preservation act of 1966, as amended; or any other provision of California law; or a property listed, nominated, or eligible for listing in the local register, including landmarks, historic districts, and contributing properties.

HISTORIC RESOURCES INVENTORY OR LOCAL INVENTORY: A list maintained by the city, which contains all properties surveyed for historical or architectural significance determined to be eligible historic resources and all properties within neighborhoods or areas determined to be eligible historic districts. In creating and maintaining the inventory, surveys, either of individual properties or of several properties at once, shall be conducted, and the information obtained shall be compiled in accordance with professional standards. Surveys may be conducted and the resulting information compiled: a) by or on behalf of the city; or b) by a qualified historic preservation consultant for a specific property, in which case the individual survey shall be submitted to, and deemed sufficient by, the director. The director shall determine whether an individual survey merits inclusion of the specific property on the local inventory.

INTEGRITY: The ability of a landmark or contributing property to convey its historical significance, with consideration of the following aspects that constitute integrity: location, design, setting, materials, workmanship, feeling, and association.

LANDMARK: Any property, including any building, structure, object, place, landscape, or natural feature located in it that is listed on the local register as approved by the city council pursuant to this article.

LIST OF LOCAL MASTER ARCHITECTS: A list maintained by the city that includes master architects as defined in this article who have designed properties in the city, and architects, designers and builders who may not be of recognized greatness, but who have designed or built properties in the city and are of local importance as determined by the city council on recommendation from the cultural heritage commission.

LOCAL REGISTER OF HISTORIC PROPERTIES: See definition of City Of Beverly Hills Register.

MAINTENANCE AND REPAIR: See definition of Ordinary Maintenance And Repair.

MASTER ARCHITECT: An architect of recognized greatness in the field of architecture who is included on the list of such architects compiled by the cultural heritage commission, and updated from time to time. See definition of List Of Local Master Architects.

MILLS ACT: The California Government Code sections 50280 et seq., as it may be amended from time to time.

NATIONAL REGISTER OF HISTORIC PLACES: The official list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, and/or culture which is maintained by the secretary of the interior under the authority of the historic sites act of 1935 and the national historic preservation act of 1966, as amended (16 USC 470 et seq., 36 CFR sections 60, 63).

NATURAL FEATURE: Any naturally occurring tree, plant, plant community or geographical or geological site or feature.

NOMINATED RESOURCE: A property included in the local inventory that has been nominated as a landmark or a contributing property of a historic district for listing on the local register as provided for in this article.

NONCONTRIBUTING PROPERTY: A property within a historic district that is not a "contributing property", as previously defined.

OBJECT: The term "object" is used to distinguish from buildings and structures those constructs that are primarily artistic in nature or are relatively small in scale and of simple construction. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment. Fountains and sculpture are examples of objects.

ORDINARY MAINTENANCE AND REPAIR: Any work that meets the criteria established in subsection 10-3-3219B of this chapter.

OWNER: Any person(s), association, partnership, firm, corporation, or public entity identified as the holder of title on any property. For purposes of this article, the term owner shall also refer to an appointed representative of an association, partnership, firm, corporation, or public entity which is a recorded owner. Absent contrary evidence, the owner shown on the latest assessment roll of the county of Los Angeles shall be presumed to be the owner.

PERIOD OF SIGNIFICANCE: The span of time that a property or geographic area was associated with important events, activities, or persons, or attained the character defining features that qualify it for designation as a landmark or historic district.

PRESERVATION: The act or process of applying measures necessary to sustain the existing form, integrity, and/or materials of a historic resource.

PROPERTY: The entirety of a site, including the buildings, structures, landscaping, objects, and other physical aspects of the location, regardless of historic designation.

PROPERTY WITHIN A HISTORIC DISTRICT: Refers to both the definitions of contributing properties and noncontributing properties. For the definition of "contributing properties in historic districts" see definition of Contributing Property.

QUALIFIED HISTORIC PRESERVATION CONSULTANT: A consultant that meets the secretary of the interior's professional qualifications standards, as defined in 36 CFR 61, or its successor.

RECONSTRUCTION: The act or process of reproducing by new construction the exact form and detail of a building, structure, object, landscape, or a part thereof, as it appeared at a specified period of time prior to alteration or demolition.

REGISTER OF HISTORIC PROPERTIES (REGISTER): See definition of City Of Beverly Hills Register.

REHABILITATION: Any act or process of making a compatible use for a property through repair, alterations, and additions while preserving those portions or character defining features which convey its historical, cultural, or architectural values.

RELOCATION: The act or process of moving all or part of a historic resource from one site to another site, or to a different location on the same site.

RESOURCE: See definition of Historic Resource.

RESTORATION: The act or process of accurately refurbishing the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

SECRETARY OF THE INTERIOR'S STANDARDS: The "Secretary Of The Interior's Standards For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings" found at 36 CFR 68.3, as it may be amended from time to time.

SIGNIFICANT PERSONS: Refers to individuals associated with Beverly Hills, in the past, whose activities, achievements, and contributions are demonstrably important within the city, state, or nation and directly associated with a property. The property must be associated with the person during the period that the person's significant achievements and contributions occurred. A person would not be considered historically significant by virtue of position/title, affiliation, race, gender, ethnicity, or religion.

SITE: The location of a significant event, a prehistoric or historic occupation or activity, or a building, structure, or object, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing construction.

STABILIZATION: The act or process of applying measures designed to reestablish a weather resistant enclosure or the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

STATE HISTORICAL BUILDING CODE: Part 2.7 of the California Health And Safety Code, commencing with section 18950, and the regulations promulgated there under, as they may be amended from time to time¹.

STRUCTURE: The term "structure" includes both buildings and other generally functional constructions made for purposes other than housing human activity, such as reservoirs and retaining walls.

SUBSTANTIAL ALTERATION: Any destruction, relocation, or alteration activities that would materially change a historic resource's character defining features or impair its historical significance.

SURVEY: A systematic and standardized process for identifying and gathering data on the city's potential historic resources by which properties are documented and evaluated for inclusion on the local inventory and potential eligibility for listing on the city's register, the California register, or the national register. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3203: INTENT, PURPOSE, AND AUTHORIZATION:

The intent and purpose of this article is to provide the ability to acknowledge, honor, and encourage the continued maintenance and preservation of those select properties in the city that, through exceptional architecture, contribute to the city's cultural history. The standards and requirements in this article are intended to be flexible taking into account financial feasibility on the part of a property owner to meet the article's provisions. Further, it is the intent and purpose of this article to promote the public health, safety, and general welfare by providing for the identification, recognition, designation, protection, enhancement, perpetuation, and use of historic resources that reflect associations important in the city's history, and to:

- A. Safeguard the character and history of the city which is reflected in its unique architectural, historical, and cultural heritage;
- B. Foster civic and neighborhood pride and a sense of identity based on the recognition of the city's past accomplishments as reflected through its buildings, structures, objects, landscaping, natural features, infrastructure, and engineering;
- C. Promote public education and awareness by preserving and encouraging interest in Beverly Hills' cultural, social, and architectural history;
- D. Strengthen the city's economy by protecting and enhancing the city's attractions to residents, tourists, visitors, and others, thereby serving as a stimulus and support to local business and industry;
- E. Enhance property values, stabilize neighborhoods, and render city landmarks and contributing properties in historic districts eligible for financial benefits and incentives;
- F. Acknowledge the critical role served by owners of city landmarks and contributing properties in historic districts in furthering the goal of historic preservation pursuant to the city's general plan;
- G. Encourage preservation and adaptive reuse of landmarks and contributing properties in historic districts by allowing changes to historic properties to accommodate new functions, and not to "freeze" historic properties in time;

H. Identify financial and other incentives that are intended to encourage owners to designate, maintain, reuse, rehabilitate, and improve landmarks and contributing properties in historic districts. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3204: ADMINISTRATIVE GUIDELINES:

The director is authorized to develop and make publicly available guidelines for the designation and preservation of historic resources and other support documents as necessary or desirable to implement this article. These administrative guidelines shall serve as baseline standards for evaluation and designation of historic resources, and processing certificates of appropriateness pursuant to this article.

The administrative guidelines shall include a process for the director to determine that a property is, at a certain time, ineligible for designation, which determination shall remain valid for a five (5) year period. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3205: PERMIT REQUIRED:

No permit shall be issued for any activity regulated by this article unless and until the proposed activity has been granted final approval or conditional approval pursuant to the provisions of this article, and then the permit shall be issued in conformity with such approval or conditional approval. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3206: MINIMUM MAINTENANCE REQUIREMENTS:

Every owner of and every person in possession or control of a landmark property or contributing property, to the maximum extent practicable, shall maintain and keep the property in good repair, as defined in sections [5-7-3](#) and [5-7-4](#) of this code. In the case that a property constitutes a public nuisance or is subject to vandalism, the city may issue any order it deems appropriate to prevent further vandalism or public nuisance pursuant to sections 1-3-101 and [5-7-6](#) of this code. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3207: CULTURAL HERITAGE COMMISSION:

A. Establishment Of Commission: There is hereby established the cultural heritage

commission. The commission shall have and exercise the powers and perform the duties set forth in this article with respect to historic preservation.

- B. Appointment And Qualifications: The commission shall be composed of five (5) members appointed by the city council, all of whom shall be residents of the city. Members of the commission shall have the duties and functions set forth in this article.

The commissioners shall have a demonstrated interest in, competence in, or knowledge of historic preservation. To the extent feasible and legally permissible, at least two (2) of the commissioners should be professionals who meet the qualifications for certain professional disciplines, including those outlined by the U.S. secretary of the interior, code of federal regulations, 36 CFR part 61. These professional disciplines include history, architecture, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines such as urban planning, American studies, American civilization, or cultural geography, to the extent that these professionals are available in the community. Of the five (5) members, at least one should be a registered architect, licensed contractor, or a California real estate licensee.

- C. Term: The term of office for each commissioner shall begin with March 1, and shall be an initial term of two (2) years, except that three (3) of the initially appointed commissioners shall be appointed for an initial term of four (4) years. Each commissioner shall thereafter have the opportunity for reappointment to an additional four (4) year term. An appointment to fill a vacancy on the commission shall be for the period of the unexpired term.

- D. Rules And Orders: The city council shall appoint the first chair and vice chair of the commission. Thereafter, the commission shall elect officers and establish its own rules and regulations, which shall be consistent with the cultural heritage commission bylaws and this code. Copies of the commission's bylaws shall be kept on file in the office of the city clerk. The commission shall keep a record of its resolutions, proceedings, and transactions, and the city clerk shall be the repository for all such records.

- E. Secretary Of The Commission: The director shall assign an employee of the community development department, other than the director, to be the secretary of the commission, and assign duties to the employee which shall be in addition to the duties regularly prescribed for that employee.

The secretary shall attend commission meetings and keep a record of the proceedings and transactions of the commission, specifying the names of the commissioners in attendance at each meeting and the ayes and noes upon all roll calls. The secretary shall, among other duties, post and publish all orders, resolutions, and notices which the commission shall order to be posted and published.

- F. **Scheduled Meetings:** The commission shall meet at least four (4) times per year. In the event the commission has more than one regular meeting per quarter, the term "regular meeting" shall mean the first such meeting in any given quarter. The commission shall establish a time and place for regular meetings to be held. Each meeting shall be noticed and held in accordance with the Ralph M. Brown act². The commission chairperson shall have the authority to call and notice special meetings in a manner specified in the Ralph M. Brown act.
- G. **Quorum And Actions Of The Commission:** A majority of the members of the commission must be present at any meeting to constitute a quorum. The powers conferred upon the commission shall be exercised by resolution or motion and adopted by a majority vote of the members present and recorded in the minutes with the ayes and noes. The action shall be attested to by the signature of the secretary of the commission.
- H. **Commission Authority In Development Review:** When this article is applicable in the review of a project consisting of a development entitlement pursuant to other articles of this title, the cultural heritage commission shall be authorized to review all development entitlement applications for the project in its entirety unless any part of the development entitlement would require approval of the planning commission, in which case the planning commission shall be the commission authorized to review all development entitlement applications for the project in its entirety, including application of this article. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3208: POWERS AND DUTIES OF THE COMMISSION:

Unless otherwise specified herein, the duties of the cultural heritage commission shall be as follows:

- A. Exercise the authority set forth in this article and as otherwise provided in this code;
- B. Inspect, investigate, and recommend for designation by the city council landmarks and historic districts, and make any preliminary or supplemental determinations or conclusions in order to implement this article;
- C. Review a citywide survey of historic resources, which is periodically updated, and other surveys on a case by case basis, and recommend adoption of the survey conclusions by the

city council;

- D. Compile or cause to be compiled and maintained a local register listing and describing all designated landmarks, historic districts, and contributing properties within the city;
- E. Compile or cause to be compiled and maintained a "list of local master architects" as defined by this article;
- F. Conduct studies and evaluations of applications or proposals seeking the designation of potential landmarks and historic districts, make determinations and recommendations as appropriate for consideration of such applications, and make any preliminary or supplemental determinations or conclusions, in order to implement this article;
- G. Develop designs for suitable signs, plaques, or other markers that may be placed, at private expense, on or near a designated landmark, historic district, or contributing property indicating that the resource has been designated as such;
- H. Review and approve applications for certificate of appropriateness and certificates of hardship, as applicable;
- I. Recommend, promulgate, and amend, from time to time, such rules and regulations as it may deem necessary to implement the purposes of this article;
- J. Assume the responsibilities and duties that may be assigned to the commission by the city under the certified local government provisions of the national historic preservation act of 1966, as amended, including, but not limited to, compliance with the national environmental protection act (NEPA) and the California environmental quality act with regard to historic resources;
- K. Review and make recommendations to the city council on Mills act contracts;
- L. Upon request, advise the city council, city departments, and city commissions on the significance of historic resources as defined by CEQA and recommend to the city council, city departments, and city commissions appropriate action in compliance with the city's

adopted CEQA procedures;

- M. Provide recommendations to the city council regarding the utilization and promotion of incentives and grants from federal and state agencies, private groups, and individuals, and regarding budgetary appropriations to advance the preservation of historic resources in the city;
- N. Participate in, promote, and conduct public information, educational, and interpretive programs pertaining to historic resources, and provide public participation in all aspects of the city's historic preservation program;
- O. Coordinate with other local, county, state, and federal governments in the pursuit of the city's historic preservation goals;
- P. Upon request, review and make recommendations to the planning commission on zoning and general plan amendments related to preserving historic resources;
- Q. Develop a program to celebrate historic resources, and recognize outstanding maintenance, rehabilitation, and preservation of landmarks, historic districts, and contributing properties;
- R. Require that each commissioner attend at least one informational or educational meeting, seminar, workshop, or conference per year in accordance with the requirements of the certified local government program;
- S. Perform any other functions that may be designated by resolution or motion of the city council (ord. C-6961 section 1 (part), 1992). (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3209: PRESERVATION INCENTIVES:

The city council may by resolution establish preservation incentives to encourage owners to designate, maintain, preserve, rehabilitate, and improve city landmarks, historic districts, and contributing properties. Preservation incentives shall be made available to owners of landmarks and contributing properties. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3210: ESTABLISHMENT OF A LOCAL INVENTORY OF HISTORIC RESOURCES:

The commission, acting with the administrative support of the director or his or her designee, shall maintain a local inventory of eligible historic resources and all properties within areas identified to be eligible historic districts within the city as such is defined and provided for in the CEQA guidelines section 15064.5(a)(2), and shall periodically review, amend, and update the local inventory. Resources listed on the city's historic resources inventory, or individually assessed and identified as potentially eligible, are eligible for nomination to the city's local register of historic properties. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3211: ESTABLISHMENT OF A LOCAL REGISTER OF HISTORIC PROPERTIES:

A local register of historic resources is hereby created. The purpose of the local register is to provide a means to preserve, protect, and enhance the most significant historic resources within the community. Properties listed on the local register may be identified on site with an exterior marker or plaque displaying pertinent information about the resource. A record of properties on the local register shall be kept by the city, and shall be provided to the regional information center of the state office of historic preservation and other agencies as required. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3212: LANDMARK DESIGNATION CRITERIA:

A nominated property may be designated as a landmark if it is more than forty five (45) years of age and satisfies the requirements set forth below.

Properties that are less than forty five (45) years of age can be designated, but in addition to meeting the criteria below, they must also exhibit "exceptional significance" as defined in this article.

For the purposes of this section, any interior space or spaces open to the general public, including, but not limited to, a lobby area, may be included in the landmark designation of a property if the city council finds that the public space(s) satisfies the following criteria:

To be designated as a landmark, a property must satisfy the following criteria:

A. The property meets at least two (2) of the following criteria:

1. Is identified with important events in the main currents of national, state, or local history,

or directly exemplifies or manifests significant contributions to the broad social, political, cultural, economic, recreational, or architectural history of the nation, state, city, or community;

2. Is directly associated with the lives of significant persons important to national, state, city or local history;
3. Embodies the distinctive characteristics of a style, type, period, or method of construction;
4. Represents a notable work of a person included on the city's list of master architects or possesses high artistic or aesthetic value;
5. Has yielded or has the potential to yield, information important in the prehistory or history of the nation, state, city, or community;
6. Is listed or has been formally determined eligible by the national park service for listing on the national register of historic places, or is listed or has been determined eligible by the state historical resources commission for listing on the California register of historical resources.

B. The property retains integrity from its period of significance. The proposed landmark retains integrity of location, design, setting, materials, workmanship, and association. Integrity shall be judged with reference to the particular criteria specified in subsection A of this section. A proposed landmark's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of integrity.

C. The property has historic value. The proposed landmark is of significant architectural value to the community, beyond its simple market value, and its designation as a landmark is reasonable, appropriate, and necessary to promote, protect, and further the goals and purposes of this article. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3213: HISTORIC DISTRICT DESIGNATION CRITERIA:

A. Historic District Designation Criteria: A geographic area may be designated a historic district if the proposed district is found to meet the following criteria:

1. At least seventy percent (70%) of the properties in the proposed district have been identified as contributing properties.
2. The district meets at least two (2) of the following criteria:
 - a. Is identified with important events in the main currents of national, state, or local history, or directly exemplifies or manifests significant contributions to the broad social,

political, cultural, economic, recreational, or architectural history of the nation, state, city, or community;

- b. Is directly associated with the lives of significant persons important to national, state, city or local history;
- c. Embodies the distinctive characteristics of a style, type, period, or method of construction;
- d. Represents a notable work of a person included on the city's list of master architects or possesses high artistic or aesthetic value;
- e. Has yielded or has the potential to yield, information important in the prehistory or history of the nation, state, city, or community;
- f. Is listed or has been formally determined eligible by the national park service for listing on the national register of historic places, or is listed or has been formally determined eligible by the state historic preservation office for listing on the California register of historical resources.

- 3. The proposed district retains integrity of location, design, setting, materials, workmanship, and association. Integrity shall be judged with reference to the particular criteria specified in this subsection A. A proposed contributing property's or district's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of integrity.
- 4. The nominated district is of significant architectural value to the community, beyond its simple market value, and its designation as a district is reasonable, appropriate, and necessary to promote, protect, and further the goals and purposes of this article.
- 5. The district is a contiguous or noncontiguous grouping of thematically related properties, or a definable area possessing a concentration of historic, scenic, or thematic sites, which contribute to each other and are unified aesthetically by plan, physical development, or architectural quality.
- 6. The district reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of park or community planning.
- 7. The proposed designation is in conformance with the purpose of the city's historic preservation provisions set forth in this article and the city's general plan.

B. Consideration Factors: In determining whether a geographic area meets the criteria in subsection A of this section, the following factors shall be considered:

- 1. The historic district should have integrity of design, setting, materials, workmanship, and association.
- 2. The collective historic value of the properties in a historic district taken together may be greater than the historic value of each individual property. (Ord. 12-O-2617, eff. 2-24-

2012)

10-3-3214: STREET IMPROVEMENTS IN HISTORIC DISTRICTS:

Whenever streetscape improvements are proposed by the city in areas that are designated districts, the city shall consider the use of materials, landscaping, light standards, and signage that are compatible with the area's historic and architectural character. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3215: LANDMARK OR HISTORIC DISTRICT DESIGNATION PROCEDURES:

A property, or properties, included in the local inventory may be designated as a landmark or historic district, respectively, and added to the city's local register in accordance with the procedures set forth in this section.

- A. City Council Or Commission Initiation Of Nomination Proceedings: Any property, or properties, may be nominated for designation as a city landmark or historic district, respectively, by the city council or cultural heritage commission. Initiation by the city council or the commission shall be by majority vote. The city council or the commission shall forward the initiation to the director for a report and recommendation.
- B. Application For Nomination By A Property Owner Or Property Owners: If proposed by the property owner, an application for the proposed designation shall be completed on a form provided by the department, and shall include all information required, payment of required fee, and filing of the application with the department. In the event that owners wish to nominate an area for designation as a local historic district, the owners of more than fifty percent (50%) of property in the proposed district must demonstrate support for the application. The director shall conduct an evaluation of the proposed designation and shall make a recommendation to the commission as to whether the application warrants formal consideration.
- C. Initial Notification To The Property Owner: Within ten (10) days of a decision by the city council or commission to initiate nomination proceedings, or of the filing of a designation application, the owner(s), designated agent or agents, and tenants of the subject property(ies), if applicable, shall be notified by mail of the intent to have the commission consider the preliminary evaluation of the property(ies). Once completed, the owner(s) or designated agent or agents shall receive a copy of the evaluation assessment report.

- D. Preliminary Consideration Of The Property Owner Application By The Commission: When nomination procedures are initiated by an owner(s), a hearing to determine whether the property(ies) warrant formal consideration by the commission shall be scheduled within sixty (60) days of filing of an application. If, based on the criteria set forth in section 10-3-3212 or 10-3-3213 of this chapter the commission determines that the application warrants formal consideration, it shall schedule a public hearing within forty five (45) days of such determination. A decision that an application does not warrant formal consideration shall be a final action of the commission, which is appealable pursuant to title 1, chapter 4, article 2 of this code. Any determination of the commission regarding whether an application warrants formal consideration shall be in writing, shall be filed by the commission secretary with the director, and shall be provided to the owner(s).
- E. Notice Of Public Hearing: Notice of public hearing shall be completed in accordance with article 2.5 of this chapter and the city's public notice guidelines.
- F. Interim Protection Measures: Upon initiation by the city council or commission, or upon determination that the application submitted by an owner(s) warrants formal consideration by the commission, any alteration, restoration, construction, removal, relocation, or demolition, in whole or in part, of a nominated property or property located in a nominated district is prohibited, and no permits shall be issued by any city department, board, or commission, including, but not limited to, a conditional use permit, a tentative tract map or tentative parcel map permit, a development review permit, any administrative approval, design review approval, or architectural review approval. No building permit authorizing any alteration, restoration, construction, removal, relocation, or demolition shall be granted while a nominated property or property within a nominated district is under consideration or any appeal related thereto is pending. Pending permit applications may be processed, but no final action shall be taken until after the conclusion of the nominating process. Permits may be issued to mitigate an immediate threat to the public health, safety, and welfare.
- G. Findings: At the conclusion of a public hearing, or any continuation thereof, but in no case more than forty five (45) days from the date set for the initial public hearing, the commission shall recommend approval, in whole or in part, or disapprove the application for the designation of the nominated property or district. The decision of the commission shall be in writing and shall state the findings of fact and reasons relied upon to reach the decision, and such decision shall be filed with the director. If the commission fails to take action on the application for the nominated resource within the forty five (45) day time period, the application for such designation shall be deemed disapproved, and it shall be the duty of the director to certify such disapproval. Upon the commission's rendering of a decision regarding nomination of a property or district, the director shall give written notification to the owner(s) of the subject property or owners of properties in the proposed district.

H. Recommendation Or Action By Commission: The commission shall base its action or recommendation on the criteria, considerations and assessment of integrity and significance outlined in this article. If it recommends listing the nominated property or district on the local register as a landmark, the commission shall specify the significant elements or character defining features of the nominated historic resource. In the case of a recommendation for listing of a historic district on the local register, the commission shall identify all properties that contribute to the area's designation as a district (contributing properties) along with the buildings, structures, and objects located on each, and all character defining features. Properties, buildings, structures, objects, features and other resources that happen to be located within the district, but that have no relevance to the area's identified period of significance, significant physical features, or identifying historic characteristics, shall be deemed noncontributing properties.

Decisions of the commission to disapprove nominations shall be in writing setting forth the basis for rejection. Only an owner of property subject to the designation proceedings shall have the authority to appeal. The city council shall have the authority to call such decisions for review pursuant to the provisions of title 1, chapter 4, article 2 of this code.

I. Hearing And Decision By The City Council: The city council shall consider the matter as soon as practicable after receiving the commission's recommendation or after receiving a timely appeal of a commission decision rejecting the proposed nomination. The city council by written resolution may approve, reject, or give modified approval to an application for the designation of a nominated property or district. The city clerk shall then notify the owner(s) of the property or the owners of property in the district of the city council's action.

J. Historic Resource Resolution: The resolution designating a landmark, historic district, or contributing property within a historic district shall include:

1. A description of the particular characteristics that justify the designation and which should therefore be preserved;
2. The reasons for designation;
3. A set of general guidelines to establish standards for future proposed changes; and
4. Delineation of the location and boundaries of the designated resource or resources.

K. Recordation Of Resolution: A certified copy of such resolution shall be recorded in the office of the county recorder of the county of Los Angeles by the city clerk immediately following its effective date. The city clerk shall also send a copy of said resolution to the director, the director of public works services, the building official, the owner(s), and the occupant(s) of the property or properties. The document to be recorded shall contain:

1. A legal description of the property or properties;
2. The date and substance of the designation;

3. A statement explaining that demolition, alteration, or relocation of the property is restricted; and
 4. A reference to this section authorizing the recordation.
- L. Disapproval Of Nominated Resource: Whenever an application for designation of a property or properties as a landmark or district, respectively, has been rejected by the commission or by the city council, no application that contains the same or substantially the same information as the one disapproved shall be resubmitted to or reconsidered by the commission within a period of five (5) years from the effective date of the final action on the prior application. However, if significant new information is made available and provided by and at the expense of the owner(s), the director may waive the time limit and permit a new application to be filed.
- M. Disapproval Of Deletion Of A Listed Resource: Where an application for repeal of a listed historic resource from the local register has been denied, no new application to delete the same listed resource may be filed or submitted for a period of one year from the effective date of the denial.
- N. Effect Of Designation: Upon designation, and thereafter, the provisions of this article shall apply to the designated property, historic district, and properties within the historic district. From and after the adoption by the city council of a resolution designating the property(ies) a local landmark or historic district, any removal or demolition, exterior construction, alteration or remodeling, or landscaping of the property, or of contributing properties within historic districts, is subject to the provisions of this article. The owner(s) of such property(ies) shall maintain and preserve the historic resource at such a level that it does not become a safety hazard to the occupants or to the public. (Ord. 12-O-2617, eff. 2-24-2012; amd. Ord. 14-O-2661, eff. 6-20-2014; Ord. 14-O-2662, eff. 6-20-2014)

10-3-3216: AMENDMENT OR RESCISSION OF LANDMARK OR HISTORIC DISTRICT DESIGNATION:

Once a landmark or historic district designation is made, it shall not be repealed by the city council unless it is determined at any time that:

- A. The evidence used to establish the designation was erroneous, or that material procedural errors were made during the designation process; or

- B. The landmark or historic district no longer meets the criteria for designation under section 10-3-3212 or 10-3-3213 of this chapter, respectively, due to damage caused by natural disaster (e.g., flood, earthquake, etc.) or reasons otherwise outside of the control of the owner.

Changes of use, differences of opinion of subsequent city councils, desires of property owners, or financial considerations are not sufficient reasons to repeal a designation. The repeal of a landmark or historic district may be initiated by the commission, the city council, or an owner. The city council must consider an application for repeal of a previously designated landmark or historic district utilizing the same procedures for designation as provided by this article. If the determination of landmark or historic district status is repealed, the city's register of historic properties shall be updated accordingly. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3217: PENDING DEMOLITION, ALTERATION OR RELOCATION; TEMPORARY PROTECTIONS PENDING DESIGNATION:

Upon the determination by the director that an owner's application for landmark or historic district designation is substantively complete, or upon initiation by the city council or the commission, no permit shall be issued and no work shall be performed on the property or properties pursuant to subsection 10-3-3215F, "Interim Protection Measures", of this chapter pending final determination on whether the property or properties, respectively, shall be designated as a landmark or a historic district. No building or demolition permit shall be issued for a proposed landmark or for any eligible contributing property identified in a proposed historic district, until a final determination has been made regarding designation.

The commission shall deny or recommend designation, and the city council shall act on any recommended designation. If, after the expiration of the final period of time to act, the city council has not taken an action on the application or initiation to designate, then any pending permit(s) may be issued and demolition, alteration, or relocation of the property may proceed.

If the commission or city council determines, in a final decision, that the property or properties proposed to be designated does not or do not meet the evaluation criteria for landmark or historic district designation set forth in section 10-3-3212 or 10-3-3213 of this chapter, then the temporary prohibition on the issuance of a permit to demolish, alter, or relocate the nominated property or nominated contributing property within a nominated historic district shall terminate. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3218: HOLD PERIOD FOR PERMITS TO ALTER CERTAIN BUILDINGS, STRUCTURES AND OBJECTS FORTY FIVE YEARS OF AGE AND OLDER:

Any work involving a change in design, material, or appearance proposed on a property forty five (45) years or older and designed by a person listed on the city's list of master architects

shall be subject to a thirty (30) day holding period prior to the issuance of permits. Permit applications may be processed, but no final action shall be taken until after the thirty (30) day period has ended. The director may waive the thirty (30) day holding period if the director determines that the property is not eligible for listing on the local register, or that the proposed work would not alter any character defining features, or that the work would comply with the "Secretary Of The Interior's Standards For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings". Work proposed on locally designated landmarks, historic districts, and properties within a historic district is subject to the provisions of this article and may require a certificate of appropriateness. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3219: CERTIFICATE OF APPROPRIATENESS:

- A. Certificate Of Appropriateness Required; Designated Landmarks And Contributing Properties: No person, owner, or other entity shall restore, rehabilitate, alter, develop, construct, demolish, remove, or change the exterior appearance of a designated landmark or contributing property within a designated local historic district without first having applied for and been granted a certificate of appropriateness or certificate of economic hardship exemption, unless the work proposed qualifies as "ordinary maintenance and repair" as defined in this article. Further, a certificate of appropriateness or certificate of economic hardship exemption may be required for alterations, demolition, new construction, and exterior changes in appearance of noncontributing properties in a historic district, as provided below.
- B. Ordinary Maintenance And Repair Exemption: A certificate of appropriateness shall not be required for ordinary maintenance and repair of a designated landmark or property within a historic district. Ordinary maintenance and repair shall mean work on a landmark property or property within a historic district that meets the following conditions:
1. Does not, by law, require issuance of a permit; and
 2. Involves regular, customary, or usual care of an existing building, structure, object, or site, for the purposes of preserving said property and maintaining it in a safe and sanitary condition; and
 3. Does not involve a change of design, material, or appearance of the property.
- C. Standards For Review Of Noncontributing Properties In A Historic District: Any construction or demolition work proposed on noncontributing properties shall be reviewed to assure that the work is undertaken in a manner that does not impair the essential form and integrity of the historic character of the district.
1. Unless otherwise exempt pursuant to this article, a certificate of appropriateness shall be

required prior to issuance of a permit for the following activities involving noncontributing properties:

- a. Demolition of any building, structure, or object;
- b. New construction, including new buildings, structures, and objects, and new ancillary features such as fences, gates and walls; and
- c. Remodeling and additions, including increases in the number of stories.

A certificate of appropriateness for work proposed on a noncontributing property shall be reviewed in the same manner as a certificate of appropriateness for work proposed on a landmark or contributing property.

D. Administrative Review: A certificate of appropriateness may be issued by the director or his or her designee for work described in this subsection that meets the following conditions:

1. Requires a permit, and
2. Does not involve a change of design, material, appearance, or a change in visibility of the character defining features or overall significance of a designated landmark or property within a historic district.

All proposed work on a landmark or contributing property shall comply with the "Secretary Of The Interior's Standards For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings". All proposed work on a noncontributing property shall comply with the standards set forth in subsection C of this section.

If the director determines that the proposed work would not result in a change of design, material, appearance or visibility of the property's character defining features and overall historical significance, and does not have the potential for a discrepancy between the proposed work and the "Secretary Of The Interior's Standards For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings", the director shall approve the certificate of appropriateness.

If the director determines that the proposed work may result in a change of design, material, appearance or visibility of the property's character defining features and overall historical significance, or has the potential for a discrepancy between the proposed work and the "Secretary Of The Interior's Standards For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings", the director shall refer the certificate of appropriateness to the commission for review.

If the director determines that the proposed work would result in a change of design, material, appearance or visibility of the property's character defining features and overall historical significance, or would create a discrepancy between the proposed work and the "Secretary Of The Interior's Standards For The Treatment Of Historic Properties With

Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings", the director may deny the certificate of appropriateness or refer the certificate of appropriateness to the commission for review.

A certificate of appropriateness shall be acted upon by the director within twenty one (21) days of receipt of a complete application.

Work that may be approved pursuant to administrative review includes, but is not limited to, the following:

In-kind replacement of historically accurate architectural features or building elements that are deteriorated, damaged beyond repair, or previously removed, including windows, doors, exterior siding, porches, cornices, balustrades, and stairs.

In-kind replacement of historically correct built or cultivated site or landscape features that are deteriorated, damaged beyond repair, or previously removed, including gates, fences, walls, hedges, pergolas, gazebos, walkways, and planting beds.

Replacement or repair of roof covering materials, gutters, and downspouts, with no change in appearance.

Foundation work and repainting of bricks on the exterior of a structure, with no change in appearance.

Addition of new fences and walls.

Addition or replacement of awnings and building mounted signs.

Landscape alterations, or removal or installation of tree and plant material not specifically designated or listed as character defining features to the designated resource.

New paving for driveways, walkways, and/or patios.

Repainting of exterior surfaces that were originally intended to be painted. No surfaces that were not intended to be painted shall be painted including unpainted brick, concrete, or stone surfaces.

Installation of new exterior lighting.

Removal of additions intended to restore the original appearance of a building, structure, or object.

Electrical, plumbing, utility work, and other permits for mechanical and other building systems, including rooftop appurtenances not visible from a public street or any property at street level which result in no change in appearance to the property.

One-story residential additions, excluding attached garages, that are no more than fifteen percent (15%) of the size of the existing main residence and have limited or no visibility to public rights of way and adjacent properties.

Other minor rehabilitation work as determined by the director.

- E. Commission Review: When a certificate of appropriateness application is referred to the commission for review, a complete application shall be one that includes a report from a qualified historic preservation consultant detailing the project's compliance with, and potential deviation from the "Secretary Of The Interior's Standards For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings".

When a certificate of appropriateness is requested for demolition or relocation of a landmark or contributing property, additional supporting materials and justification shall be required as specified in the city's administrative guidelines.

Upon receipt of a complete application, the commission shall act on the certificate of appropriateness within seventy five (75) days. The time limits in this section shall be extended by the director when necessary to comply with the provisions of CEQA or with the written consent of the owner. A public hearing shall be scheduled and notice provided in accordance with article 2.5 of this chapter and CEQA where applicable. Notice to the owner or the owner's representative shall be sent via certified mail, return receipt requested.

The applicant for a certificate of appropriateness may make submissions to the community development department of any or all relevant information. Based on this and any other relevant information, the commission shall take into consideration the reasonable economic, environmental, and technical feasibility of the work in determining whether to issue a certificate of appropriateness.

The commission shall issue a certificate of appropriateness if it finds that the work:

1. Complies with the "Secretary Of The Interior's Standards For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings"; or
2. Does not demonstrate strict compliance with the "Secretary Of The Interior's Standards For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings", but nonetheless protects and preserves the historic and architectural qualities and the character defining features that make the property a landmark or contributing property; or
3. Meets the criteria established for demolition, alteration, or relocation of a resource in the city's administrative guidelines. (Ord. 12-O-2617, eff. 2-24-2012; amd. Ord. 14-O-2661, eff. 6-20-2014)

10-3-3220: CERTIFICATE OF APPROPRIATENESS TERM, EXTENSION, MODIFICATION:

A. Term:

1. General: A certificate of appropriateness shall lapse and become void twenty four (24) months from the date of issuance, unless a building permit (if required) has been issued and the rights granted by the permit or certificate have been exercised and are being pursued to completion. For purposes of this subsection, the term "exercised" means substantial expenditures in good faith reliance upon the permit or certificate. The burden of proof in showing substantial expenditures in good faith reliance upon the permit or certificate shall be placed upon the permit or certificate holder.
2. Certificate Of Appropriateness For Demolition: A certificate of appropriateness for the demolition of a property shall expire at the end of one hundred eighty (180) days from the date of issuance of the certificate of appropriateness, unless a demolition permit or a building permit for the demolition work has been obtained and the rights of the permit or certificate are being exercised and pursued to completion. For purposes of this subsection, the term "exercised" means substantial expenditures in good faith reliance upon the permit or certificate. The burden of proof in showing substantial expenditures in good faith reliance upon the permit or certificate shall be placed upon the permit or certificate holder.

B. Extensions:

1. General: Except as provided below for certificates of appropriateness authorizing demolition, so long as the approved plans have not been modified, a certificate of appropriateness may be extended for a period of up to an additional twelve (12) months upon request by the owner and submittal of an appropriate application and payment of applicable fees. The director may approve, conditionally approve, or deny any request for a time extension, or may refer the request to the commission, which may approve, conditionally approve, or deny any request for a time extension based upon criteria established in the city's administrative guidelines.
2. Demolition: A certificate of appropriateness for the demolition of a property may be extended for a period of up to an additional forty five (45) days upon request by the owner and submittal of an appropriate application and payment of applicable fees no later than thirty (30) days prior to expiration. The director may approve, conditionally approve, or deny any request for a time extension, or may refer the request to the commission, which may approve, conditionally approve, or deny any request for a time extension based upon criteria established in the city's administrative guidelines.

- C. Modifications: An application to modify an issued certificate of appropriateness, or a condition of approval imposed thereon, shall be heard and considered in the same manner and by the same body as the original review application unless otherwise determined by the director. Payment of applicable fees is required upon submitting an application. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3221: CERTIFICATE OF ECONOMIC HARDSHIP:

- A. Issuance: The commission may issue a certificate of economic hardship to allow alteration, demolition, or relocation of a landmark or property within a historic district when it has been demonstrated that denial of a certificate of appropriateness would create an undue hardship upon the owner.
- B. Applications: An application for a certificate of economic hardship shall be made on the prescribed form and shall be accompanied by the following information as requested by the director:
1. The estimated market value of the property in its current condition.
 2. The estimated market value of the property after completion of the proposed alteration or demolition.
 3. Estimates of the costs of the proposed alteration or demolition.
 4. In the case of demolition, the estimated market value of the property after rehabilitation of the existing property for continued use and an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structures on the property.
 5. A rehabilitation report from a licensed engineer or architect with expertise in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.
 6. For income producing properties, information on annual gross income, operating and maintenance expenses, tax deductions for depreciation, and annual cash flow after debt service, current property value appraisals, assessed property valuations, and real estate taxes.
 7. The remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two (2) years.
 8. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing, or ownership of the property.
 9. The amount paid for the property if purchased within the previous thirty six (36) months, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.
 10. Any listing of the property for sale or rent, and prices asked, and offers received, if any within the previous two (2) years.
 11. Any other information the director may reasonably require in order to determine whether

or not the property does or may yield a reasonable return to the owner.

- C. Public Hearing: The commission shall hold a public hearing on all applications for a certificate of economic hardship; after which it may approve, conditionally approve, or deny the application. Such hearing may be held concurrently with any related application for a certificate of appropriateness.
- D. Findings: The commission shall not approve any certificate of economic hardship unless it makes all of the following findings:
1. Denial of the application would decrease the value of the subject property so as to leave no substantial value.
 2. Sale or rental of the property is not financially feasible, when looking at the cost of holding such property for uses permitted in the applicable zone.
 3. Adaptive reuse of the property for lawful purposes is prohibited or impractical.
 4. Denial of the application would damage the owner of the property unreasonably in comparison to the benefit conferred on the community.
- E. Copies Of Certificate: Upon approval, copies of the certificate of economic hardship shall be forwarded to the applicant, the building official, the director, and any other department or agency upon request.
- F. Effectiveness Of Certificate: No certificate of economic hardship shall become effective until the time to appeal its approval has expired. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3222: APPEALS; FINALITY OF DECISIONS FOR CERTIFICATES OF APPROPRIATENESS AND CERTIFICATES OF ECONOMIC HARDSHIP:

- A. Authority To Appeal Decisions: Only the owner of the property subject to a certificate of appropriateness or certificate of economic hardship, or an owner of property within a historic district in which the property subject to a certificate of appropriateness or certificate of hardship is located, shall be entitled to file an appeal of a decision on the certificate. The city council shall have the authority to call such decisions for review pursuant to the provisions of title 1, chapter 4, article 2 of this code.

- B. Finality Of Director Or Commission Decision: Any decision of the director or commission on a certificate of appropriateness or certificate of economic hardship under this article shall become final if no appeal is submitted within the applicable appeal period and the decision is not called for review by the city council pursuant to the provisions of title 1, chapter 4, article 2 of this code.
- C. Appeal Of Director Actions: Appeals of a final decision by the director pursuant to this article may be appealed to the commission within fifteen (15) days from the date of the decision pursuant to the procedures set forth in [title 1](#), article 4, [chapter 2](#) of this code.
- D. Appeal Of Commission Actions: Appeals of a final decision by the commission may be appealed to the city council within fifteen (15) days from the date of the decision pursuant to the procedures set forth in title 1, chapter 4, article 2 of this code, or may be called for city council review pursuant to the provisions of title 1, chapter 4, article 2 of this code. The city council shall act within ninety (90) days after expiration of the appeal period, or within any additional period agreed to by the property owner or owners. Failure to act within the permitted time period shall be deemed a denial of the application. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3223: HISTORIC RESOURCE DISCLOSURE:

- A. For purposes of this section, the following terms shall have the meanings set forth below:

BUYER: A transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent with the object of entering into a real property transaction. "Buyer" includes vendee or lessee.

OFFER TO PURCHASE: A written contract executed by a buyer acting through a selling agent which becomes the contract for the sale of the real property upon acceptance by the seller.

OWNER: Any person, copartnership, association, corporation, or fiduciary having legal or equitable title or any interest in real property.

REAL PROPERTY TRANSACTION: A transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase.

SALE: A transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of California Civil Code section

2985, and transactions for the creation of a leasehold exceeding one year's duration.

SELLING AGENT: A listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller.

- B. If real property has been designated by the city of Beverly Hills as a landmark, a property within a historic district, or has been identified in the local inventory or any update thereto, the owner or the selling agent of the property shall, in any real property transaction, provide the buyer of the property with notice informing the buyer of the property's historic status. The owner or the selling agent shall provide the notice to the buyer before expiration of any inspection contingency period, and in any event before transfer of title.
- C. Any person who violates the provisions of this section shall be subject to the penalties and remedies specified in [title 1, chapter 3](#) of this code. In addition, a buyer who does not receive the notice required by subsection B of this section may bring a civil action for damages.
- D. The disclosure requirements of this section shall not apply to real estate transactions subject to Civil Code section 1102.2 or any successor or amended section. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3224: LIMITED APPLICABILITY TO RENOVATIONS OF PROPERTIES REQUIRED TO COMPLY WITH SECRETARY OF INTERIOR STANDARDS:

Notwithstanding anything else set forth in this article, any property that is designated a landmark on the local register and the renovation of which is required by legislative enactment by the city of Beverly Hills adopted prior to the adoption of this article to comply with the secretary of interior's standards for rehabilitation pursuant to 36 CFR 68.3(b) and related guidelines for rehabilitating historic buildings shall be exempt from the provisions in subsection 10-3-3215F and sections 10-3-3217, 10-3-3218, 10-3-3219, 10-3-3220, 10-3-3221 and 10-3-3222 of this chapter; provided, however, that any such property shall be subject to all provisions of this article for demolition, and for off site relocation of significant structures or significant landscaping.

Regardless of the contents of a historic resource resolution, as set forth in subsection 10-3-3215J of this chapter, the provisions of the legislative enactment imposed on any property that is subject to this section shall control with respect to characteristics to be preserved and standards for future proposed changes. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3225: ENFORCEMENT AND PENALTIES:

- A. Any person who violates a requirement of this article or fails to obey an order issued by the commission and/or director, or fails to comply with a condition of approval of any certificate or permit issued under this chapter, shall be subject to enforcement actions as set forth in [title 1, chapter 3](#) of this code.
- B. In addition to all other remedies available to the city, any alteration or demolition of a historic resource in violation of this article is expressly declared to be a nuisance and may be abated as deemed appropriate by the city.
- C. In addition to all other remedies, the city shall have the authority to impose a temporary moratorium on the development of a property for a period not to exceed sixty (60) months from the date the city becomes aware of any alteration or demolition in violation of this article, unless the owner obtains permits to restore or reconstruct the property to its original condition prior to the violation and the work is consistent with the "Secretary Of The Interior's Standards For The Treatment Of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, And Reconstructing Historic Buildings". The purpose of the moratorium is to provide the city an opportunity to study and determine appropriate mitigation measures for the alteration and/or removal of the historic resource, and to ensure measures are incorporated into any future development plans and approvals for the subject property. Mitigation measures which may be determined by the commission and/or director shall be imposed as a condition of any subsequent permit for development of the subject property.
- D. The city attorney may maintain an action for injunctive relief to restrain a violation or cause, where possible, the complete or partial restoration, reconstruction, or replacement of any historic resource demolished, partially demolished, altered, or partially altered in violation of this chapter.
- E. Any person who constructs, alters, removes, or demolishes a designated landmark or property in a designated historic district without the approval and issuance of a certificate or permit issued pursuant to this article may be required to restore the property to its appearance prior to the violation to the extent such restoration is physically possible, under the guidance of the director. This civil remedy shall be in addition to, and not in lieu of, any criminal penalties available.
- F. In addition to any other remedies provided herein, any violation of this article may be enforced by civil action brought by the city. Remedies under this article are in addition to and do not supersede or limit any and all other remedies or penalties, whether civil or

criminal. The remedies provided herein are cumulative and not exclusive. In any such action, the city may seek as appropriate, one or both of the following remedies:

1. A temporary or permanent injunction, or both;
2. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3226: PREEXISTING ENTITLEMENTS AND BUILDING PERMITS:

This article does not apply to construction, alteration, moving, or demolition of a property, building, structure, or object pursuant to valid entitlements granted by the city prior to the effective date hereof, or started under a valid building permit issued prior to the effective date hereof, as such entitlements or permits may be extended pursuant to provisions of this code and state laws. Once the work authorized by any such entitlement or building permit has been completed the provisions of this article apply. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3227: FEES:

The city council may, by resolution, establish the fee(s) for submission of a nomination, and all other applications and submissions made pursuant to this chapter. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3228: CITY OWNED PROPERTIES; SCHOOL DISTRICT PROPERTIES:

- A. The provisions of this article do not apply to city owned properties; however the city council may, in its discretion, add a city owned property to the local register provided the property meets the criteria set forth in either section 10-3-3212 or 10-3-3213 of this chapter following any process it deems appropriate.
- B. The provisions of this article shall not apply to properties owned by a public school district, unless a school district files an application requesting landmark or historic district designation of its property and the city designates the facility or facilities as a landmark or historic district. (Ord. 12-O-2617, eff. 2-24-2012)

10-3-3229: DANGEROUS AND IMMEDIATELY DANGEROUS PROPERTIES:

Nothing in this article shall prevent the construction, alteration, repair, restoration, stabilization, rehabilitation, or demolition of a property, regardless of designation, if the building official determines the property creates an unsafe or dangerous condition that presents an imminent threat to the public of bodily harm or of damage to adjacent property. The building official shall notify the director in writing of a finding that the proposed action is necessary in order to mitigate the unsafe or dangerous condition. In such event, no certificate of appropriateness or permit referral shall be required. However, the building official shall make all reasonable efforts to consult the director, or his or her designated representative to determine if there are feasible alternatives to the proposed action that will adequately protect the public health and safety. (Ord. 12-O-2617, eff. 2-24-2012)

Examples of Property Tax Calculations Under Mills Act- ESTIMATES ONLY

Current Assessed Valuation	\$2,000,000	
Current Taxes	\$20,000	1% of Val.

Recalculating Using Mills Act Assessment Method

Gross Income	\$60,000	\$5,000 /Month
Less Expenses	\$8,000	\$667 /Month (insurance, maintenance, utilities)
Net Income	\$52,000	
Capitalization Rate	15.00%	
Mortgage Rate	5.00%	
Risk Component	4.00%	
Tax Rate	1.00%	
Amortization	5.00%	
New Valuation	\$346,667	(\$52,000/15.00%)
New Taxes	\$3,467	(\$346,667 X 0.01)
TOTAL SAVINGS	\$16,533	(\$20,000-\$3,467)

Loss of Revenue (by Agency)	Approx. %
Los Angeles County	31%
Educational Augmentation Funds	23%
MBUSD	16%
Tax District #1 (City)	15%
Other Agencies	16%

Examples of Property Tax Calculations Under Mills Act- ESTIMATES ONLY

Current Assessed Valuation	\$2,000,000	
Current Taxes	\$20,000	1% of Val.

Recalculating Using Mills Act Assessment Method

Gross Income	\$120,000	\$10,000 /Month
Less Expenses	\$8,000	\$667 /Month (insurance, maintenance, utilities)
Net Income	\$112,000	
Capitalization Rate	15.00%	
Mortgage Rate	5.00%	
Risk Component	4.00%	
Tax Rate	1.00%	
Amortization	5.00%	
New Valuation	\$746,667	(\$112,000/15.00%)
New Taxes	\$7,467	(\$746,667 X 0.01)
TOTAL SAVINGS	\$12,533	(\$20,000-\$7,467)

Loss of Revenue (by Agency)	Approx. %
Los Angeles County	31%
Educational Augmentation Funds	23%
MBUSD	16%
Tax District #1 (City)	15%
Other Agencies	16%

Examples of Property Tax Calculations Under Mills Act- ESTIMATES ONLY

Current Assessed Valuation	\$500,000	
Current Taxes	\$5,000	1% of Val.

Recalculating Using Mills Act Assessment Method

Gross Income	\$60,000	\$5,000 /Month
Less Expenses	\$8,000	\$667 /Month (insurance, maintenance, utilities)
Net Income	\$52,000	
Capitalization Rate	15.00%	
Mortgage Rate	5.00%	
Risk Component	4.00%	
Tax Rate	1.00%	
Amortization	5.00%	
New Valuation	\$346,667	(\$52,000/15.00%)
New Taxes	\$3,467	(\$346,667 X 0.01)
TOTAL SAVINGS	\$1,533	(\$5,000-\$3,467)

Loss of Revenue (by Agency)	Approx. %
Los Angeles County	31%
Educational Augmentation Funds	23%
MBUSD	16%
Tax District #1 (City)	15%
Other Agencies	16%



Office of Historic
Preservation

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Mills Act Property Tax Abatement Program

READ THIS FIRST!

The Mills Act Program is administered and implemented by local governments. Mills Act contracts are between the property owner and the local government granting the tax abatement. OHP is **not** a signatory to Mills Act contracts.

Each local government establishes their own criteria and determines how many contracts they will allow in their jurisdiction. For answers to specific questions such as local eligibility criteria, application procedures, and contract terms, contact the city or county official for your jurisdiction.

<http://www.calpin.ca.gov/directory/county.asp>

GENERAL MILLS ACT QUESTIONS and ANSWERS

Q: My property or a property I am considering buying is already under a Mills Act contract. What does that mean to me as a property owner?

A: Mills Act contracts are for 10 years initially with automatic yearly extensions and stay with the property when transferred. Subsequent owners are bound by the contract and have the same rights and obligations as the original owner who entered into the contract. Because the local government and the property owner negotiate other specific terms of the contract, you need to contact your local government to determine the rights and obligations a Mills Act contract creates.

[Mills Act Contacts \(../pages/1074/files/Mills Act Contacts.pdf\)](#)

Q: *How are tax assessments determined for properties under the Mills Act?*

A: The State Board of Equalization has provided guidelines for county assessors for use in assessing properties under the Mills Act.

Board of Equalization Guidelines

(<http://www.boe.ca.gov/proptaxes/pdf/Ita05035.pdf>)

Q: *Does my property qualify for the Mills Act Program?*

A: First, find out if your local government participates in the program. Use the [Mills Act Contacts](#) ([/pages/1074/files/millsactcontacts.pdf](http://pages/1074/files/millsactcontacts.pdf)) list to find out if your local government participates in the Mills Act Program, what the local criteria are, and what the process is for applying.

Q: *No, my local government does not currently participate. Now what do I do?*

A: Contact the Planning Department or Community Development Department of your local government and ask them to consider adopting the Mills Act Program.

California Cities Contact Information (<http://www.calpin.ca.gov/directory/city.php>)

California Counties Contact Information (<http://www.calpin.ca.gov/directory/county.php>)

Q: *What is the Mills Act Program?*

A: Economic incentives foster the preservation of residential neighborhoods and the revitalization of downtown commercial districts. The Mills Act is the single most important economic incentive program in California for the restoration and preservation of qualified historic buildings by private property owners. Enacted in 1972, the Mills Act legislation grants participating local governments (cities and counties) the authority to enter into contracts with owners of qualified historic properties who actively participate in the

restoration and maintenance of their historic properties while receiving property tax relief. California State Codes Relating to the Mills Act include the following:

California Government Code, Article 12, Sections 50280 - 50290

(<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=50001-51000&file=50280-50290>)

California Revenue and Taxation Code, Article 1.9, Sections 439 - 439.4 ([../pages/1074/files/crtc.pdf](http://leginfo.ca.gov/pub/1074/files/crtc.pdf))

Q: How does the Mills Act benefit Local Governments?

A: The Mills Act allows local governments to design preservation programs to accommodate specific community needs and priorities for rehabilitating entire neighborhoods, encouraging seismic safety programs, contributing to affordable housing, promoting heritage tourism, or fostering pride of ownership. Local governments have adopted the Mills Act because they recognize the economic benefits of conserving resources and reinvestment as well as the important role historic preservation can play in revitalizing older areas, creating cultural tourism, building civic pride, and retaining the sense of place and continuity with the community's past.

A formal agreement, generally known as a Mills Act or Historical Property Contract, is executed between the local government 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. Local authorities may impose penalties for breach of contract or failure to protect the historic property. The contract is binding to all owners during the contract period.

Q: How does the Mills Act benefit Owners of Historical Properties?

A: Owners of historic buildings *may* qualify for property tax relief if they pledge to rehabilitate and maintain the historical and architectural character of their properties for at least a ten-year period. The Mills Act program is especially beneficial for recent buyers of historic properties and for current owners of historic buildings who have made major improvements to their properties.

Mills Act participants *may* realize substantial property tax savings of between 40% and 60% each year for newly improved or purchased older properties because valuations of Mills Act properties are determined by the Income Approach to Value rather than by the standard Market Approach to Value. The income approach, divided by a capitalization rate, determines the assessed value of the property. In general, the

income of an owner-occupied property is based on comparable rents for similar properties in the area, while the income amount on a commercial property is based on actual rent received. Because rental values vary from area to area, actual property savings vary from county to county. In addition, as County Assessors are required to assess all properties annually, Mills Act properties may realize slight increases in property taxes each year.

Q: What is a Qualified Historic Property?

A: A qualified historic property is a property listed on any federal, state, county, or city register, including the National Register of Historic Places, California Register of Historical Resources, California Historical Landmarks, State Points of Historical Interest, and locally designated landmarks. Owner-occupied family residences and income-producing commercial properties may qualify for the Mills Act program, subject to local regulations.

Q: What is OHP's role in the Mills Act program?

A: OHP provides Mills Act information to local governments and uses information provided by local governments to maintain a list of communities participating in the Mills Act program as well as copies of Mills Act ordinances, resolutions, and contracts that have been adopted. OHP does not participate in the contract negotiations, is not a signatory to the contract and has no authority over the administration of the Mills Act program.

Q: Where can I get more information?

A: Contact your local government for answers to specific questions about the program in your community. Additional information is available from the **Board of Equalization** (<http://www.boe.ca.gov/proptaxes/pdf/Ita05035.pdf>) and **California Government Code, Article 12, Sections 50280 - 50290** (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=50001-51000&file=50280-50290>).

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[State Historical Building Code \(SHBC\) \(?page_id=21410\)](#)

Mills Act Staff Contact

Shannon Lauchner (<mailto:shannon.lauchner@parks.ca.gov>)

Mills Act/CLG Coordinator

State Historian II

916-445-7013

Contact Us

📍 **Address:** 1725 23rd Street, Suite 100, Sacramento, CA 95816

☎ **Public Information Inquiries:** (916) 445-7000

✉ **Email:** calshpo@parks.ca.gov (<mailto:calshpo@parks.ca.gov>)

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For more info n the quilts: <http://t.co/Fcl4zQP3yd> (<http://t.co/Fcl4zQP3yd>)
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STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0084
916 445-4982 • FAX 916 323-8765
www.boe.ca.gov

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State Controller, Sacramento

RAMON J. HIRSIG
Executive Director

June 2, 2005

No. 2005/035

TO COUNTY ASSESSORS AND INTERESTED PARTIES:

NOTICE OF BOARD ACTION

**GUIDELINES FOR THE ASSESSMENT OF
ENFORCEABLY RESTRICTED HISTORICAL PROPERTY**

On May 25, 2005, the Board of Equalization approved the following guidelines pertaining to the assessment of enforceably restricted historical property. These guidelines supersede Letter To Assessors No. 77/174 (dated December 19, 1977).

On June 8, 1976, the voters of California approved Proposition 7 which amended section 8 of article XIII of the California Constitution. This amendment requires that enforceably restricted historical property be valued on a basis that is consistent with its restrictions and uses. Sections 439 through 439.4 were added to the Revenue and Taxation Code to implement Proposition 7. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

Staff drafted these guidelines in consultation with interested parties and, after discussions, no issues remained unresolved. The guidelines discuss the enforceably restricted historical property requirements, the income to be capitalized, the capitalization rate, the effect of Proposition 13 upon enforceably restricted historical properties that undergo change in ownership or new construction, and the valuation of property under notice of nonrenewal.

The guidelines are posted on the Board's website at www.boe.ca.gov/proptaxes/guideproc.htm. We hope this information proves useful and promotes uniformity of assessment for these properties. If you have any questions, please contact our Real Property Technical Services Unit at 916-445-4982.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:grs
Enclosure

GUIDELINES FOR THE ASSESSMENT OF ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

HISTORY

Effective March 7, 1973, Chapter 1442 of the Statutes of 1972 (also known as the Mills Act) added sections 50280 through 50289 to the Government Code to allow an owner of qualified historical property to enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics.

Prior to the passage of Proposition 7 in 1976, these agreements (i.e., Mills Act contracts) constituted enforceable restrictions on the use of land within the meaning of Revenue and Taxation Code section 402.1¹ (Property Tax Rule 60, repealed January 10, 1978). However, Proposition 7 added the second paragraph to section 8 of article XIII of the California Constitution:

To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.

To implement Proposition 7, Chapter 1040 of the Statutes of 1977 (Senate Bill 380) added sections 439 through 439.4 to the Revenue and Taxation Code. These statutes, in particular section 439.2, prohibit a valuation of enforceably restricted historical property based on sales data and instead require that such property be valued by a prescribed income capitalization method.

ENFORCEABLY RESTRICTED HISTORICAL PROPERTY

Under section 439, historical property is "enforceably restricted" if it meets the definition of a "qualified historical property" as defined in Government Code section 50280.1 and is subject to a historical property contract executed pursuant to Government Code section 50280 and following. A qualified historical property includes qualified historical improvements and the land on which the improvements are situated, as specified in the historical property contract. If the contract does not specify the land to be included, the qualified historical property includes only a land area of reasonable size to situate the improvements.

A qualified historical property is privately-owned property that is not exempt from property taxation and that also meets either of the following criteria:

- The property is listed in the National Register of Historic Places, or is located within a registered historic district; or

¹ Unless otherwise noted, all statutory references are to the Revenue and Taxation Code.

- The property is listed in any official state, county, city, or city and county official register of historical or architecturally significant sites, places or landmarks, including the California Register of Historical Resources, California Historical Landmarks, State Points of Historical Interest, local landmarks, and local survey listings of historical properties.

The historical property contract must have a minimum term of ten years, and, as applicable, must contain certain other elements, including the following:

- A provision relating to the preservation of the qualified historical property and, when necessary, the restoration and rehabilitation of the property in conformance with state historic preservation guidelines;
- A requirement for the periodic examination of the property to ensure compliance with the agreement;
- A requirement that the historical property agreement be binding upon successor owners of the qualified historical property; and
- A provision for an automatic one-year extension of the contract, with an additional year added to the initial contract term on each anniversary of the contract, unless either party provides notice of nonrenewal. If a notice of nonrenewal is given, the contract runs for its remaining term.

Once a contract is signed, accepted, and recorded, the property subject to the contract must be assessed under section 439.2 on the ensuing lien date. For example, if a contract were recorded in August 2004, the property should have been valued pursuant to section 439.2 for lien date January 1, 2005.

Local authorities may cancel a historical property agreement for breach of contract or failure to protect the historical property. Alternatively, the local entity may take legal action to enforce the contract.

ASSESSMENT

The assessment of an enforceably restricted historical property involves the following aspects: (1) valuing the restricted historical property; (2) properly applying certain assessment provisions relating to article XIII A of the California Constitution (Prop 13); (3) valuing the restricted historical property following a notice of nonrenewal; and (4) valuing the restricted historical property following cancellation of the contract.

Valuing the Restricted Historical Property

Section 439.2 prohibits the assessor from using sales data relating to similar properties, whether or not enforceably restricted, to value an enforceably restricted historical property. Instead, the assessor must annually value a restricted historical property using an income approach that

follows the specific provisions of section 439.2. These provisions explicitly address (1) the determination of the income to be capitalized, (2) the development of the capitalization rate, (3) the capitalization technique to be used, and (4) the determination of the restricted historical property's taxable value on each lien date.

Income to be Capitalized

As provided in section 439.2(a), the income to be capitalized when valuing a restricted historical property is the property's fair rent less allowed expenditures, or allowed expenses. In general, section 439.2(a) follows Property Tax Rule 8(c), with fair rent in section 439.2 corresponding to gross return in Rule 8(c); allowed expenditures, or allowed expenses, in section 439.2 corresponding to gross outgo in Rule 8(c); and the income to be capitalized in section 439.2 corresponding to net return in Rule 8(c). In addition, for the purposes here, "gross income" is synonymous with fair rent, and "net operating income" is synonymous with the income to be capitalized.

The parties to a historical property agreement may stipulate a minimum annual income to be capitalized, in which case the income to be capitalized may not be less than the stipulated amount.

Fair rent, or gross income. The gross income of a restricted historical property is the fair rent for the property considering the restrictions on the property's use. When establishing the fair rent for a restricted historical property, the appraiser should consider the actual rent and typical rents in the area for similar properties in similar use, where the owner pays the property taxes.

The actual rent received by the owner of the subject restricted historical property is relevant to an estimate of fair market rent only if the actual rent is the same rent that would be expected if the existing lease were renegotiated in light of current market conditions, including the subject property's enforceable restrictions on use. With respect to rents from similar, or comparable, properties, if such rents are from properties outside the geographic or market area of the subject property, or from properties that are otherwise dissimilar to the subject property, the rents may not be relevant to an estimate of the subject property's fair rent.

Comparable rental data for single-family residences can be obtained from real estate brokers, rental agencies, and newspaper ads. Many assessors offices maintain rental data for commercial properties, and this data may be helpful when establishing the fair rent for restricted historical property when the contract allows a commercial use. Rental data for commercial property also can be obtained from commercial real estate brokers. For the purpose of estimating anticipated market fair rent and expenditures for use in calculating the subject property's value, rental and expense data for existing restricted historical properties, including the subject historical property, can be obtained through an annual questionnaire sent to property owners.

If sufficient rental data are not available, or such data are unreliable, the appraiser must impute a gross income for the subject restricted historical property. The imputed income should be based on what an informed investor would reasonably expect the property to yield under prudent management, given the provisions under which the property is enforceably restricted.

Allowed expenditures. Section 439.2(a)(3) defines allowed expenditures, or allowed expenses, as expenses necessary for the maintenance of the property's income. Allowed expenses are the same as those permitted in Property Tax Rule 8(c).

Typical expenses include the cost of utilities, maintenance and repair, insurance and property management. Allowed expenses also may include amounts owing for special assessments and special taxes. Expenses related to debt service, general property taxes, and depreciation should not be deducted.

In general, to arrive at the net income to be capitalized, allowed expenses are subtracted from the estimated rental income. However, in order to properly process the income, the appraiser must be aware of the structure of the lease with regard to how expenses are shared between the landlord-owner and the tenant.

The proper perspective from which to view the processing of income and expenses is that of the landlord-owner. The objective is to estimate the net income to the landlord-owner—this is the amount that should be capitalized—and the correct question to ask is the following: What, if any, allowed expenses must the landlord-owner pay out of the rental income that he or she receives?

In a gross lease, almost all of the allowed expenses must be paid out of the gross rent and, therefore, must be subtracted from the gross rent to arrive at the net income to be capitalized. In a net lease, relatively few allowed expenses must be paid by the landlord-owner out of the net rent (because the tenant pays most expenses) and only these expenses should be subtracted from the net rent to arrive at the net income to be capitalized. Frequently, there is a hybrid arrangement—some expenses are paid by the landlord-owner and some by the tenant. How expenses are shared often depends upon the property type together with local conventions.

Income to be capitalized, or net operating income. The income to be capitalized, or net operating income, is simply the fair rent, or gross income, described above less the allowed expenditures described above.

Capitalization Rate

The method of developing the capitalization rate to be used when valuing restricted historical property is prescribed by statute; a capitalization rate derived from sales data or the band of investment is not permitted.

Section 439.2 prescribes two types of capitalization rates for restricted historical property: (1) a capitalization rate to be used when valuing restricted historical property that is an owner-occupied single-family residence and (2) a capitalization rate to be used when valuing all other restricted historical property. Both types of capitalization rates include components for interest (i.e., yield), risk, property taxes, and amortization of improvements; in fact, the two rates are identical except for the amount of the risk component. The capitalization rate contains the following components:

- An interest component annually determined by the State Board of Equalization and based on the effective rate on conventional mortgages as determined by the Federal Housing Finance Board. The interest component is announced annually, in a Letter To Assessors, by October 1 of the preceding assessment year.
- A historical property risk component determined by property type. For owner-occupied single-family residences, the rate is 4 percent; for all other types of restricted historical property, the rate is 2 percent.
- An amortization component for improvements defined as a percentage equal to the reciprocal of the remaining life of the improvements (e.g., if the remaining economic life of the improvements were 20 years, the amortization component would be 5 percent). Since the amortization component applies only to improvements, not to land, which is a non-depreciating asset, it is necessary to adjust the amortization component described in the statute. We recommend the following method of adjustment:
 1. Based upon market data, estimate the percentage of total property value attributable to improvements.
 2. Multiply this percentage by the amortization component described in the statute (i.e., by the reciprocal of the remaining life of the improvements). For example, if the remaining life of the improvements was 20 years, yielding a reciprocal percentage of 5 percent, and if 70 percent of the total property value was attributable to the improvements, the adjusted amortization factor would be 3.5 percent ($0.05 \times 0.70 = 0.035$).
 3. Add the adjusted amortization component to the other capitalization rate components to arrive at the total capitalization rate.
- A property taxes component equal to the percentage of the estimated total tax rate applicable to the property for the assessment year multiplied by the assessment ratio. Typically, the property tax component includes the basic tax rate of 1 percent plus an additional ad valorem rate related to any bonded indebtedness pertaining to the tax rate area in which the property is located. Special district assessments and special taxes are not included in the property tax component. As noted above, they should be treated as allowed expenses.

Capitalization Technique

The capitalization technique to be used when valuing a restricted historical property is prescribed by statute and is formulaic. Section 439.2(e) provides that the restricted value shall be the income to be capitalized, or net operating income, developed as prescribed by statute, divided by one of the two types of capitalization rates prescribed by statute. In other words, the restricted value is the simple quotient of the prescribed income to be capitalized and the prescribed capitalization rate.

Determination of Taxable Value on Each Lien Date

Section 439.2(d) provides that a historical property's restricted value may not be enrolled if it exceeds either (1) the value of the subject property as determined under section 110 (i.e., current market value) or (2) the value of the subject property as determined under section 110.1 (i.e., factored base year value). In other words, section 439.2 states that the taxable value of a restricted historical property on each lien date shall be the lowest of its restricted value, current market value, or factored base year value. The factored base year value for an enforceably restricted historical property is the value that was established for the 1975 lien date² or as of the date of the most recent change in ownership, whichever is later, adjusted by the annual inflation factor.

Article XIII A (Prop 13) Considerations

This section discusses how three important elements relating to implementation of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment of restricted historical property. Also discussed is the case in which only a portion of a property is subject to the historical property agreement—that is, the case in which a single property unit contains both restricted and unrestricted portions.

Change in Ownership

When a property subject to a historical property contract undergoes a change in ownership, a new base year value should be established for the property as of the date of change in ownership, as provided in section 110.1. Typically, a restricted historical property's base year value will be greater than its restricted value determined under section 439.2 and hence will not be enrolled as the property's taxable value. However, the establishment of a new base year value enables the assessor to perform the three-way value comparison prescribed by section 439.2(d) and described above. The establishment of a base year value is also necessary in order to calculate the assessed values of historical property should the historical property agreement enter nonrenewal status.

New Construction

Section IV of National Register Bulletin #15 defines a "building" as follows:

A building, such as a house, barn, church, hotel, or similar construction, is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

Section IV further specifies that "[b]uildings eligible for the National Register must include all of their basic structural elements. Parts of buildings, such as interiors, facades, or wings, are not eligible independent of the rest of the existing building. The whole building must be considered,

² Sections 110.1(d) and 405.5 do not apply to historical properties under contract as of lien date 1975 because the constitutional amendment which placed the valuation of historical property under article XIII rather than article XIII A had not yet been passed and, thus, was not in effect for the 1975 lien date.

and its significant features must be identified." Thus, eligibility for the National Register is determined by the extent to which the basic structural elements of an existing building are intact. In general, a newly constructed building would not be eligible because it is not an existing building with basic structural elements.³

Also, a newly constructed building is not a historic resource, and, thus, is not a qualified historical property within the meaning of Government Code section 50280.1. For example, a newly constructed detached garage (assuming it is not a reconstruction of a historical garage) clearly would not be eligible because it has no significance in American history or architecture, nor does it meet any of the other requisite criteria.

Bulletin 15, however, does list one type of newly constructed property that may be eligible for inclusion under the Mills Act. A reconstructed historic building is eligible for the National Register if the reconstruction is "accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived."

The historical property contract typically specifies the scope and type of any work to be performed on the historical improvements. Improvements existing as of the date of the contract would be subject to the provisions of section 439.2 unless specifically excluded by the contract. Any new construction made to the historical structure after the issuing date of the contract would not be subject to the provisions of section 439.2 unless specifically included in the contract or an amendment to the contract. Any questions regarding new construction to enforceably restricted historical structures should be directed to the counsel of the legislative body of the city, county, or city and county that contracted with the property owner.

Assuming that the newly constructed property is subject to the historical property contract, a base year value should be established for the newly constructed portion and this value added to the factored base year value of the existing restricted property.

In some cases, an existing historical property may include a portion that is restricted (i.e., subject to a historical property contract) and a portion that is unrestricted. In this case, separate factored base year values should be maintained for the restricted and unrestricted portions and the base year value of any newly constructed property added to the appropriate portion. The assessment treatment of this type of property is discussed further below.

Supplemental Assessment

Although the assessor is required to establish a new base year value upon a change in ownership or completed new construction involving restricted historical property, such property is not subject to supplemental assessment. As provided in Revenue and Taxation Code section 75.14:

Supplemental assessment; limitation. A supplemental assessment pursuant to this chapter shall not be made for any property not subject to the assessment

³ National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation," U.S. Department of the Interior, National Park Service (www.cr.nps.gov/nr/publications/).

limitations of Article XIII A of the California Constitution. All property subject to the assessment limitations of Article XIII A of the California Constitution shall be subject to the provisions of this chapter, except as otherwise provided in this article.

As discussed above, the assessment of enforceably restricted historical property is subject to the provisions of article XIII, section 8 of the California Constitution, not article XIII A. Thus, section 75.14 precludes the assessor from enrolling supplemental assessments for enforceably restricted historical property.

Historical property not yet under contract that undergoes a change in ownership or new construction is subject to supplemental assessment, even if the property owner later executes a historical property contract in the same fiscal year. Also, any new construction involving a historical property that does not come under the existing historical property contract (e.g., a detached garage added to a restricted historical property) would be subject to supplemental assessment.

When a Property Contains Both Restricted and Unrestricted Portions

When only a portion of a property that would normally be considered a single appraisal unit is restricted by a historical property contract, the assessed value should be determined by making a comparison of three values, determined as follows. First, the portion under contract should be valued using the capitalization method prescribed by section 439.2. Added to this figure should be the lower of the unrestricted portion's fair market value or factored base year value. The resulting sum should be compared to both the fair market value and the factored base year value of the entire property (i.e., both restricted and unrestricted portions) and the lowest of the three figures should be enrolled.

Valuing Property Under Notice of Nonrenewal

As provided in Government Code section 50282, either the owner of a restricted historical property or the local government entity may serve notice that it does not intend to renew the historical property contract. If such notice is not given, another year is automatically added to the term of the initial contract, thus creating a "rolling" contract term that is always equal to the initial contract term.

Section 439.3 prescribes the valuation method for a restricted historical property in nonrenewal status; this valuation method applies until the end of the restricted period (i.e., until the existing contract expires). In essence, the method results in a restricted value that gradually approaches the historical property's factored base year value as the remaining term under the contract decreases. For a property in nonrenewal status, the assessor must annually value the property as follows:

1. Determine the full cash value (i.e., factored base year value) of the property in accordance with section 110.1. (Alternatively, if the property will not be subject to section 110.1 when the historical property agreement expires, determine its fair market value in accordance with

section 110, as if the property were free of the agreement's restrictions; or, if the property will be subject to another type of restricted value standard when the historical property agreement expires, determine the property's value as if it were subject to the new restrictions.)

2. Determine the restricted value of the property by the capitalization of income method provided in section 439.2.
3. Subtract the restricted value determined in Step 2 from the factored base year (or other) value determined in Step 1.
4. Using the amount for the interest rate component (section 439.2(b)(1)) announced by the Board, discount the amount obtained in Step 3 for the number of years remaining until the termination of the contract.
5. Determine the restricted value of the property in nonrenewal status by adding the value determined in Step 2 to the amount obtained in Step 4.

The historical property's restricted value in nonrenewal status—that is, the value determined above, in accordance with section 439.3—should be compared with the historical property's factor base year and current market values, and the lowest of these three values should be enrolled as the property's taxable value.

Cancellation of Contract

The government entity party to a historical property contract may cancel the contract, after notice and a public hearing, if it determines that either the owner has breached the agreement or the property has deteriorated to the extent that it no longer meets the standards of a historical property. If the contract is cancelled, the property owner must pay a cancellation fee equal to 12½ percent of the property's current fair market value as though free of the contractual restriction, such value to be determined by the county assessor. After a contract is cancelled, the lower of the property's factored base year value or current market value should be enrolled for the ensuing lien date.

SUMMARY

The key points contained in these guidelines can be summarized as follows:

1. An owner of qualified historical property may enter into a preservation contract with local government. When property is placed under such a contract, the owner agrees to restore the property if necessary, maintain its historic character, and use it in a manner compatible with its historic characteristics. Such property receives the special valuation treatment prescribed under Revenue and Taxation Code sections 439 through 439.4.
2. Enforceably restricted historical property is to be annually valued by the income capitalization method prescribed in section 439.2, which contains specific instructions with

regard to the income to be capitalized, the capitalization rate, and the capitalization technique to be used. The restricted value must be compared to the property's current market value and factored base year value, with the lowest of these three values enrolled as the property's taxable value.

3. When assessing restricted historical property, the appraiser should consider how three important elements of article XIII A—change in ownership, new construction, and supplemental assessment—relate to the assessment. The appraiser should consider how a property should be assessed when only a portion of it is subject to a historical property agreement.
4. Restricted historical property under a notice of nonrenewal should be valued in accordance with section 439.3.
5. The government entity party to a historical property contract may cancel the contract. The cancellation fee is 12½ percent of the property's current fair market value as though free of the contractual restriction, with such value to be determined by the local assessor.

Additional information about Mills Act contracts may be obtained from the state Office of Historic Preservation, either by telephone at 916-653-6624, or from their website (www.ohp.parks.ca.gov).

(Note: Please see the assessment examples following.)

EXAMPLE 1 (OWNER-OCCUPIED SINGLE-FAMILY RESIDENCE)**Subject Restricted Historical Property**

Restored, 105-year-old, Victorian single-family residence. Excellent condition. Under Mills Act contract since 1985 and not in nonrenewal status. Owner-occupied.

Determination of Restricted Value (current lien date)

Gross income (Fair rent)		
\$1,500 per month x 12 months =		\$18,000
Less: Anticipated vacancy and collection loss		
\$18,000 x 5%		<u>- 900</u>
Effective gross income		\$17,100
Less: Anticipated operating expenses		
Grounds maintenance	\$600	
Fire insurance	400	
Management Fee	360	
Water and garbage	240	
Building maintenance	+ 500	<u>- 2,100</u>
Net Operating Income		\$15,000

Restricted Capitalization Rate**Rate Components:**

Interest rate	.080	
Risk (owner-occupied SFR)	.040	
Property tax (ad valorem)	.015	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; $0.02 \times 0.70 - 0.014$)	+ .014	<u>.149</u>

Restricted Value

$$\$15,000 \div .149 = \underline{\$100,671}$$

Taxable Value—Three-Way Value Comparison

Restricted value	\$100,671
Factored base year value (based on prior change in ownership)	\$357,000
Current market value (based on comparable sales)	\$450,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be \$93,671 (\$100,671 restricted value less the homeowners' exemption of \$7,000).

Note 1: If this property had been a non-owner-occupied SFR, the only difference in the determination of the restricted value would have been the use of a risk rate component of 2% rather than 4% in the capitalization rate.

Note 2: In this and the following examples, the gross income, or fair rent, is presented on a gross rent basis, that is, under the assumption that the landlord-owner pays all operating expenses out of the gross income.

EXAMPLE 2 (OFFICE USE)**Subject Restricted Historical Property**

Multi-tenant, restored historical office building in a downtown commercial district. Under Mills Act contract since 1985 and not in nonrenewal status.

Determination of Restricted Value (current lien date)

Gross Income (Fair rent):

Offices 140,000 sf @ \$1.75/sf = \$245,000
x 12 months = \$2,940,000

Less: Anticipated vacancy and collection loss

\$2,940,000 x 5% - 147,000

Effective gross income \$2,793,000

Less: Anticipated operating expenses

Management \$290,000
Maintenance 95,000
Insurance 75,000
Utilities 360,000
Janitorial + 140,000 - 960,000

Net Operating Income \$1,833,000

Restricted Capitalization Rate

Rate Components:

Interest component .08

Risk .02

Property tax (ad valorem) .011

Amortization (50-year remaining life; improvements
constitute 75% of total property market value

0.02 x 0.75 = 0.015 + .015 .126

Restricted Value

(\$1,833,000 ÷ .126) = \$14,547,619

Taxable Value—Three-Way Value Comparison

Restricted value	\$14,547,619
Factored base year value (based on prior change in ownership)	\$18,191,077
Current market value (based on comparable sales)	\$21,000,000

The lowest of the three possible values is the restricted value. Thus, the taxable value would be \$14,547,619

EXAMPLE 3 (MIXED USE—RESIDENTIAL AND OFFICE)**Subject Restricted Historical Property**

Two-story, restored historical property in a downtown district. Upper level is residential unit occupied by owner. Lower level contains three office spaces subject to short-term rental agreements. The income stream for the upstairs unit must be calculated separately from the downstairs unit because the risk rate is different for the owner-occupied unit.

Determination of Restricted Value

Separate restricted values for the upper-level residence and the lower-level office space must be determined, because the risk components are different for the two types of use. The total restricted value is sum of these two values.

Upper-Level Unit

Gross income (Fair rent) based upon comparable rent data

\$975 per month x 12 months = \$11,700

Less: Anticipated vacancy and collection loss

\$11,700 x 5% - 585

Effective gross income \$11,115

Less: Anticipated operating expenses

Grounds maintenance \$300

Fire insurance 200

Management Fee 180

Water and garbage 120

Building maintenance + 250 - 1,050

Upper-Level Net Operating Income \$10,065

Restricted Capitalization Rate (owner-occupied SFR)

Rate components:

Interest rate .080

Risk .040

Property tax .010

Amortization (50-year remaining life; improvements
constitute 70% of total property market value;

$0.02 \times 0.70 = 0.014$ + .014 .144

Upper-level Restricted Value ($\$10,065 + .144$) = \$69,895

Lower-Level Offices

Gross income (Fair rent)

1000 sf @ \$1.60/sf = \$1,600 x 12 months \$19,200

Less: Anticipated vacancy and collection loss

\$19,200 x 5% - 960

Effective gross income \$18,240

Less: Anticipated operating expenses		
Grounds maintenance	\$300	
Fire insurance	200	
Management Fee	180	
Water and garbage	120	
Building maintenance	+ 250	- 1,050
Lower-Level Net Operating Income		\$17,190

Restricted Capitalization Rate		
Rate components:		
Interest component	.080	
Risk	.020	
Property tax	.010	
Amortization (50-year remaining life; improvements constitute 70% of total property market value; $0.02 \times 0.70 = 0.014$)	+ .014	.124
Lower Level Restricted Value (\$17,190 ÷ .124)		\$138,629
Add: Upper Level Restricted Value		+ \$69,895
Total Restricted Value		\$208,524

Taxable Value—Three-Way Value Comparison

Restricted Value	\$208,524
Factored base year value (based upon prior change in ownership)	\$364,140
Current market value (based upon comparable sales data)	\$400,000

The lowest of the three possible values is the restricted value. Thus, the net taxable value would be \$201,524 (\$208,524 less the homeowners' exemption of \$7,000).

EXAMPLE 4 (MIXED VALUATION—PART RESTRICTED AND PART UNRESTRICTED)**Description of Subject Property (Comprises Both Restricted and Unrestricted Portions)**

The subject property is a 10-acre parcel with a farmhouse and barn situated on 2 acres; the remaining 8 acres are farmland. The farmhouse and barn are used as an owner-occupied single-family residence; this portion of the property is restricted under a Mills Act contract. The remaining 8 acres of farmland are unrestricted.

Value of Restricted Portion (current lien date)

Gross income (Fair rent) for farmhouse and barn		
\$2,000 per month x 12 months =		\$24,000
Less: Anticipated vacancy and collection loss		
\$24,000 x 5%		- 1,200
Effective gross income		\$22,800
Less: Anticipated operating expenses		
Grounds maintenance	\$600	
Fire insurance	400	
Management Fee	360	
Water and garbage	240	
Building maintenance	+ 500	- 2,100
Net Operating Income		= \$20,700

Restricted Capitalization Rate

Rate components:		
Interest component	.080	
Risk (owner-occupied)	.040	
Property tax (ad valorem)	.010	
Amortization (50-year remaining life; improvements constitute 70% of total property market value		
$0.02 \times 0.70 = 0.014$	+ .014	.144
Restricted Value ($\$20,700 \div .144$)		= \$143,750

Taxable Value—Three-Way Comparison

Total Property Restricted Value (sum of restricted value above and lower of FBYV or current market value of unrestricted portion)

Restricted Value (portion under contract)	\$143,750
FBYV (unrestricted portion)	+ \$102,000
Restricted Value (total property)	\$245,750

Factored base year values (based upon a prior change in ownership of the entire property, allocated between restricted and unrestricted portions):

Farmhouse, barn, and 2 acres (restricted portion)	\$204,000
8 acres (unrestricted portion)	+ \$102,000
Total FBYV (total property)	\$306,000

Current market values (based upon comparable sales data):

Farmhouse, barn, and 2 acres (restricted portion)	\$230,000
8 acres (unrestricted portion)	+ <u>\$120,000</u>
Total Current Market Value (total property)	\$350,000

The lowest of the three values is the Restricted Value (total property), \$245,750. Thus, the net taxable value would be \$238,750 (\$245,750 less \$7,000 homeowners' exemption).

EXAMPLE 5 (PROPERTY IN NONRENEWAL STATUS)**Description of Subject Restricted Historical Property**

The same property as in Example 2, except the property owner has served notice of renewal. The Mills Act contract covering the property was originally executed in September 1995, and the owner served notice of nonrenewal in June 2004. Value the property for the 2005 lien date, reflecting its nonrenewal status. Assume that the property's restricted, current market, and factored base year values from Example 2, provided below, also refer to January 1, 2005.

Restricted value	\$14,547,619
Current market value	\$21,000,000
Factored base year value	\$18,191,077

Restricted Value in Nonrenewal Status

Value as if unrestricted (factored base year value)	\$18,191,077
Restricted value	<u>- 14,547,619</u>
Difference	\$ 3,643,458
Present worth of difference	
PW1 @ 6.00 %, 9 years (interest component for lien date 2005)	<u>x .591898</u>
	= \$ 2,156,555
Plus restricted value	<u>+ \$14,547,619</u>
Restricted value in nonrenewal status—lien date January 1, 2005	\$16,704,174

Taxable Value

Since the restricted value in nonrenewal status, \$16,704,174, is less than either the property's current market value or its factored base year value, this is the taxable value.

GOVERNMENT CODE

SECTION 50280-50290

50280. 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.

50280.1. "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.

50281. 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.

50281.1. 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.

50282. (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.

50284. 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.

50285. No contract shall be canceled 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.

50286. (a) If a contract is canceled 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.

50287. 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.

50288. 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 canceled 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.

50289. 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.

50290. 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.

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.

RESOLUTION NO. 14-0062

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL ESTABLISHING A MILLS ACT PILOT PROGRAM INCLUDING DEVELOPMENT OF AN APPLICATION PROCESS, REVIEW PROCEDURES, AND REQUIRED CONTRACT PROVISIONS FOR IMPLEMENTATION OF THE ACT IN THE CITY

Section 1. On June 17, 2014 the City Council directed City Staff to review and present for future Council consideration a Mills Act Program for the City of Manhattan Beach to incentivize the preservation, maintenance, and rehabilitation of historic properties.

Section 2. A Mills Act Program would provide property tax reductions to property owners who agree to invest in the preservation and rehabilitation of qualifying historic properties. Pursuant to Government Code Section 50280 et seq. ("the Mills Act"), the City Council may establish a program pursuant to which the City may enter a historical property preservation agreement ("Preservation Agreement") with an owner of a historic property for the purposes of preservation, rehabilitation, and maintenance of a designated historic resource in accordance with the United States Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and applicable City codes ("Mills Act Program"). The Preservation Agreement allows the owner to receive a reduction in property taxes in exchange for the property owner's commitment to repair, restore, rehabilitate, and/or maintain the historic property.

Section 3. The preservation and rehabilitation of historic properties would enhance the character of Manhattan Beach by retaining the City's sense of place and continuity with the community's past. As a matter of public policy, the identification, designation,

preservation, enhancement, perpetuation and use of improvements, buildings and structures within the City that reflect special elements of the City's cultural, historical, agricultural, architectural, artistic, educational, or economic heritage is in the interest of the health, economic prosperity, cultural enrichment and general welfare of the people. Preservation of historic resources is an important aspect of tourism. By encouraging property owners to maintain and restore historic buildings and landscapes, the City is preserving its history and supporting the local economy. Preservation Agreements would benefit residential neighborhoods, businesses, community pride, and regional image.

Section 4. The City's General Plan Land Use Element includes policies related to preserving resources that represent the City's history and culture or contribute to the City's special character and unique identity. Specifically, General Plan Policies LU-1.1, LU-2:3, LU-4.4, LU-4.5, and LU-4.6, focus on protecting and preserving the City's significant historic character of homes and residential neighborhoods.

Section 5. The City of Manhattan Beach Municipal Code has established procedures for identifying and designating historic resources. Culturally Significant Landmarks Code (City of Manhattan Beach Municipal Code, Title 10, Chapter 10.86) is intended to identify buildings, structures, and sites that are of particular historic or cultural significance and define the City's heritage and historic development. The Historic Preservation Commission ("Commission") is designated to serve in an advisory capacity to the City Council on the preservation of historic and cultural landmarks. In this capacity, the Commission, Historical Preservation Consultant and the Community Development Department, which is the department that supports the Commission and Historical Consultant, are positioned to administer programs

the City establishes for rehabilitating, restoring, maintaining and preserving historic structures, including a Mills Act Program.

Section 6. On October 7, 2014 the City Council considered the draft Mills Act Pilot Program. Prior to taking action on the proposed program, the City Council considered written and oral reports by City staff, and public testimony.

Section 7. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the City evaluated the action of establishing a Mills Act Pilot Program. The Mills Act Pilot Program establishes a property tax reduction for property owners that rehabilitate, restore, maintain, and preserve properties that are determined to be of historic significance. The establishment of a Mills Act Pilot Program does not authorize any new development or construction of buildings, nor does it authorize any new land uses. The program encourages the continued use of existing structures and the continuance of existing land uses. For these reasons it can be seen with certainty that the Mills Act Pilot Program will not result in any significant adverse impact on the environment. Thus, the establishment of the Program is exempt from the CEQA environmental review requirements pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. Further, the Mills Act Pilot Program would be categorically exempt from environmental review pursuant to section 15331 of the CEQA Guidelines, which exempts projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (Weeks and Grimmer, 1995) in that it is a program that results in the preservation and

maintenance of historic resources in exchange for property tax reductions. In addition, the Program is categorically exempt from CEQA, pursuant to CEQA Guidelines Section 15308 because it is an action by a regulatory agency (the City) to maintain, restore and protect the environment through protection of historical resources in the community.

Section 8. The City of Manhattan Beach Mills Act Pilot Program (Mills Act Program) shall go into effect at midnight on October 7, 2014, and shall continue in effect, for two (2) years, until 11:59 p.m. on October 7, 2016. To allow adequate processing time, new applications for preservation agreements shall be accepted from April 1, 2016 of each calendar year the Pilot Program is in effect. No new applications will be accepted into the program after May 31, 2016, unless a permanent Mills Act Program is established to supersede the Mills Act Pilot Program. If a permanent Mills Act Program is not established, preservation agreements adopted prior to October 7, 2016, shall continue in effect, unless terminated or cancelled in accordance with the Mills Act.

Section 9. A “qualified historic property” for the purposes of the Manhattan Beach Mills Act Pilot Program shall be defined as:

- a. A single-family residential property, a multi-family residential property or a commercial property with a tax assessed value not exceeding \$3 million dollars, unless exempted from the maximum tax assessed value through exceptional circumstances;
- b. Located entirely within the City of Manhattan Beach;
- c. Privately owned;
- d. Not exempt from property taxation; and

- e. Individually listed in the City of Manhattan Beach as an official Culturally Significant Landmark.

Section 10. To limit any fiscal impact of the Mills Act Pilot Program, the City of Manhattan Beach shall limit annual revenue loss from property tax revenues to \$50,000 each year. To further limit any fiscal impact, the City of Manhattan Beach shall not enter into or execute more than three (3) preservation agreements per calendar year during the term of the Mills Act Pilot Program. If less than three (3) preservation agreements are executed during the first calendar year, the remainder may be rolled over to the second calendar year for a total of six (6) preservation agreements for the two-year term of the Mills Act Pilot Program. No more than six (6) preservation agreements shall be entered into during the term of the Mills Act Pilot Program. To further limit unanticipated potential losses to property tax revenue, contracts executed under the Mills Act Pilot Program shall specify that the City has full right to cancel the contract, on an annual basis, the first year and every year thereafter, pursuant to Government Code Section 50280. To encourage participation by various property owners, the City may establish a means of accepting applications to the Mills Act Pilot Program that ensures that both commercial and residential property owners have an opportunity to participate.

Section 11. In the event that the City Council decides to extend the Mills Act Pilot Program, the Council will consider increases to the cap on tax assessed value in Section 9 of this Resolution and the limit on annual property tax revenue loss in Section 10 of this Resolution, perhaps based upon the Consumer Price Index.

Section 12. The City Council hereby delegates to the Director of Community Development or his or her designee, with review by the City Attorney, the authority and responsibility to develop, maintain, and amend, as necessary, an application, administrative guidelines, and forms of Preservation Agreements for properties seeking qualification and participation in the Mills Act Pilot Program. The Director of Community Development or his or her designee shall, as necessary, establish priority consideration criteria whereby such criteria shall be used to rank applications in terms of the preservation and rehabilitation needs of each property and prioritize selection of applications. The Director of Community Development or his or her designee shall also report on an annual basis to the City Council the number of Mills Act preservation agreements executed and the effectiveness of the Mills Act Pilot Program. The terms of the Preservation Agreement shall comply with Government Code Section 50280 et seq. The maintenance, repair, rehabilitation, and/or restoration standards applicable to the subject property shall be set forth in the Preservation Agreement. In consideration of abiding with the terms of the Preservation Agreement, the owner of the subject property shall be entitled to qualify for a reassessment of the historic property pursuant to State Revenue and Taxation Code Section 439 et seq.

Section 13. The City Council hereby delegates to the Commission the authority and responsibility to review and make recommendations to the City Council on applications submitted pursuant to the Mills Act Program. The City Council shall be the final authority on the authorization and approval of Preservation Agreements pursuant to the Mills Act Pilot Program.

Section 14. Preservation Agreements will have a minimum contract term of 10 years, with automatic renewal on an annual basis, to be recorded against title to the property and running with the land. Owners shall maintain the regulated characteristics of historical significance of the historic property in accordance with the rules and regulations of the State Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and any applicable local codes and policies. Owners must allow reasonable periodic examination of the interior and exterior of the premises, if a request is made by representatives of the County Assessor, State Office of Historic Preservation Department of Parks and Recreation, the State Board of Equalization, and/or the City's Community Development Director or his or her designee to determine the owner's compliance with the Preservation Agreement. No Preservation Agreement may be cancelled without compliance with Government Code Section 50280 et seq.

Section 15. The City Council shall establish fees for the processing of applications for Preservation Agreements and other matters required by the Mills Act Pilot Program, as legally permissible by State and local law.

Section 16. The record of proceedings for establishment of the City's Mills Act Pilot Program is maintained by the City as part of the official records of the Community Development Department at 1400 Highland Avenue, Manhattan Beach, California, 90266.

Section 17. A Mills Act Pilot Program is hereby established based on the parameters included in this resolution to implement the State of California Mills Act in the City of Manhattan Beach on a trial basis.

Section 18. The City Clerk shall certify to the adoption of the Resolution and shall cause the Resolution and his certification to be entered in the Book of Resolutions of the Council of the City.

PASSED, APPROVED AND ADOPTED this 7th day of October, 2014

Ayes: Howorth, Lesser, D'Errico, Burton, and Mayor Powell

Noes: None

Absent: None


Abstain: None

ATTEST:



LIZA TAMURA
City Clerk

(SEAL)



WAYNE POWELL
Mayor of the City of
Manhattan Beach, California

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES) SS.
)
CITY OF MANHATTAN BEACH)

I, LIZA TAMURA, City Clerk of the City of Manhattan Beach, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing resolution, being Resolution No. 14-0062 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 7th day of October, 2014, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Howorth, Lesser, D'Errico, Burton, and Mayor Powell.
Noes: None
Absent: None
Abstain: None.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 8th day of October 2014.



City Clerk of the City of
Manhattan Beach, California

(SEAL)

