

RESOLUTION NO. 2008-39

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA
APPROVING A REVISION AND RESTATEMENT OF THE CITY OF
POMONA MILLS ACT HISTORIC PRESERVATION TAX
ABATEMENT PROGRAM**

WHEREAS, the City of Pomona has duly initiated the proposed Revision and Restatement of the City of Pomona Mills Act Historic Preservation Tax Abatement Program (MISC 08-009);

WHEREAS, Section 50280 *et seq.* of the California Government Code and Section 439 *et seq.* of the California Revenue and Taxation Code authorizes the City to enter into contracts with owners of qualified historic properties to restrict the use of the properties in a manner that complies with state code and that the City Council deems reasonable in exchange for granting the owners property tax relief;

WHEREAS, the California Office of Historic Preservation characterizes the state's Mills Act legislation as "the single most important economic incentive program in California for the restoration and preservation of qualified historic buildings by private property owners";

WHEREAS, implementation of a comprehensive Mills Act program will further the goals and objectives of Pomona's General Plan by assisting property owners in maintaining the rich cultural heritage embodied in the City's historic properties;

WHEREAS, Pomona's Historic Preservation Ordinance, Zoning Ordinance Section .5809-13.I.2 pertaining to historic preservation participation incentives, authorizes the use of Mills Act contracts to foster the preservation of the City's historic properties;

WHEREAS, on February 11, 2002, the City Council approved Resolution No. 2002-32 adopting review procedures and standards for implementation of the City of Pomona Mills Act Historic Preservation Tax Abatement Program;

WHEREAS, in processing the Pomona's three existing Mills Act contracts, responding to inquiries from interested residents and researching the Mills Act programs of other cities, the City has identified a number of issues related to Pomona's current program that need to be resolved prior to the execution of additional contracts;

WHEREAS, on January 16, 2008 and February 20, 2008, the Historic Preservation Commission held public workshops to discuss issues related Pomona's current Mills Act Historic Preservation Tax Abatement Program;

WHEREAS, at its regular meeting on April 2, 2008, the Historic Preservation Commission carefully considered all pertinent testimony and the staff report offered in the case and has recommended City Council approval of the proposed Revision and Restatement of the City of Pomona Mills Act Historic Preservation Tax Abatement Program (MISC 08-009); and

WHEREAS, on April 21, 2008, the City Council of the City of Pomona carefully considered the Historic Preservation Commission's recommendation, all pertinent testimony and the report offered in the case concerning MISC 08-009.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pomona as follows:

SECTION 1. The City Council finds that the project is exempt per Section 15061(b)(3) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). Section 15061(b)(3) exempts projects where it can be seen with certainty that the activity does not have the potential to cause a significant direct effect on the environment. The approval of the proposed Revised and Restated City of Pomona Mills Act Historic Preservation Tax Abatement Program (MISC 08-009) does not have the potential to cause a significant direct effect on the environment. Rather, because this project will require that alterations to historic properties that are subject to Mills Act contracts comply with the Secretary of Interior's Standards for Rehabilitation; the State Historic Building Code; and the City of Pomona Municipal Code, Historic Preservation Ordinance and Historic Preservation Design Guidelines, the approval of the project has the potential to prevent or reduce significant direct negative effects on the environment.

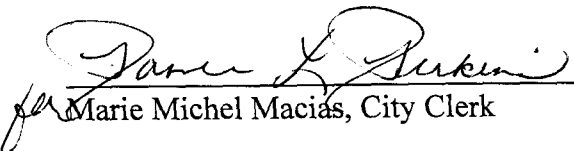
SECTION 2. The City Council hereby rescinds Resolution No. 2002-32 and approves the Revised and Restated City of Pomona Mills Act Historic Preservation Tax Abatement Program (MISC 08-009), attached hereto as Exhibit A.


SECTION 3. The City Clerk shall attest and certify to the passage and adoption of this Resolution and it shall become effective immediately upon its approval.

APPROVED AND ADOPTED THIS 21ST DAY OF APRIL, 2008.

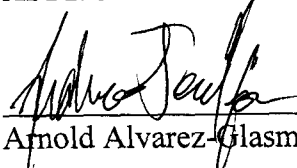
ATTEST:

CITY OF POMONA:


Marie Michel Macías, City Clerk


Norma J. Torres, Mayor

APPROVED AS TO FORM:


Arnold Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

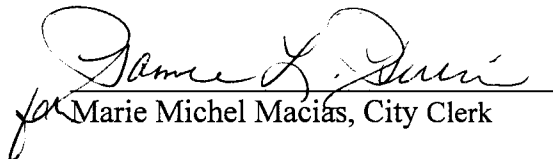
I, MARIE MICHEL MACIAS, CITY CLERK of the City of Pomona do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Pomona held on the 21ST day of April, 2008 by the following vote:

AYES: COUNCILMEMBERS: HUNTER, RODRIGUEZ, LANTZ, ATCHLEY

NOES: COUNCILMEMBERS: CARRIZOSA

ABSENT: COUNCILMEMBERS: ROTHMAN, TORRES

ABSTAIN: COUNCILMEMBERS: NONE


for Marie Michel Macias, City Clerk

City of Pomona
Revised and Restated Mills Act Historic Preservation Tax Abatement Program

Approved by City Council Resolution No. _____ on April 21, 2008

Introduction

Enacted in 1972 by the state of California, the Mills Act legislation grants participating local governments 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. State codes related to the Mills Act include California Government Code, Article 12, Sections 50280 – 50290 and California Revenue and Taxation Code, Article 1.9, Sections 439 – 439.4.

The Mills Act Historic Preservation Tax Abatement Program (the program) is administered and implemented by local governments. Mills Act contracts are established between the property owner and the local government granting the tax abatement. Each local government establishes its own criteria for evaluating applications and determines how many contracts will be allowed within its jurisdiction.

A. State Requirements

1. The property must be privately owned, not exempt from property taxation and either 1) listed in the National Register of Historic Places or registered as a historic district or 2) listed in a state, city or county official register of historical or architecturally significant sites, places or landmarks.
2. The contract must require that the property owner preserve the property and when necessary, restore and rehabilitate the property throughout the term of the contract.
3. The term of the contract shall be a minimum of ten years. One year will automatically be added to the initial term of the contract each year on the anniversary date of the contract, unless a city or property owner files a notice of non-renewal sixty or ninety days prior to the anniversary, respectively. If a notice of non-renewal is duly filed, the existing contract shall remain in effect for the balance of the period remaining since the execution or last renewal of the contract.
4. No later than twenty days after a city enters into a contract, the clerk of the legislative body shall record a copy of the contract with the county recorder.
5. The property owner must provide written notice of the contract to the State Office of Historic Preservation within six months of entering into the contract.

6. All work must comply 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, and the State Historic Building Code.
7. The contract must require periodic interior and exterior inspections by the tax assessor, Department of Parks and Recreation and State Board of Equalization to determine the property owner's compliance with the contract.
8. The contract must be binding upon successive property owners for the term of the contract. Successive property owners shall have the same rights and obligations under the contract as the owner who entered the contract.
9. During the term of the contract, the county assessor shall value the property by the capitalization of income method.
10. A cancellation fee of 12.5 % of the full market value of the property must be assessed upon the property owner if the contract is canceled for breach of the provisions of the contract or if the property is altered or allowed to deteriorate so that it is no longer considered a significant historic structure.

B. City Requirements

1. *Qualifying Structures.* To qualify for the program, a structure must be one of the following:
 - a. A designated single historic landmark;
 - b. A contributing structure located within a designated historic district; or
 - c. A non-contributing structure that is located within a designated historic district, is at least fifty years old, and will be brought closer to qualifying for re-designation as a contributing structure by the completion of the projects approved under the contract.
2. *Non-Qualifying Structures.* Non-qualifying structures include all structures that are located outside of designated historic districts and have not been designated as single historic landmarks.
3. *Qualifying Projects.* A wide range of projects may be considered for inclusion in a Mills Act contract (see Attachment 1 for a "List of Suggested Projects"). However, to qualify for the program, each project must meet the following requirements:
 - a. All aspects of the project including, but not limited to, its design, materials, and techniques must comply 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 Historic Building

Code; and the City of Pomona Municipal Code, Historic Preservation Ordinance and Design Guidelines.

- b. Projects required to ensure the structural integrity of a structure (e.g., seismic retrofitting, electrical change out or termite treatment) shall be completed prior to the undertaking of projects involving other elements of the structure.
 - c. For projects involving removable features (e.g., light fixtures, fireplace mantelpieces or built-in cabinets), the features shall remain attached to the structure.
 - d. For projects involving interior work, the subject structure shall be made accessible to the public during the term of the contract once every three years for a tour, upon request by Pomona Heritage, The Historical Society of Pomona Valley or The Auxiliary of the Pomona Valley Hospital Medical Center. Nothing contained in this section shall be construed to require that the subject structure be made available for a tour more than once every three years.
4. *Non-Qualifying Projects.* Additions (e.g., room or patio additions), the relocation of structures, and projects that fail to meet all of the requirements listed in Section B.3., above, do not qualify for the program.
 5. *Certificates of Appropriateness.* Prior to City Council approval of a Mills Act contract, the Historic Preservation Commission shall approve a Certificate of Appropriateness for a Restoration, Rehabilitation and Preservation Plan that includes a schedule of projects to be completed during the first ten years following execution of the contract.
 6. *Expenditure of Tax Savings.* The property tax saving realized during the first ten years following execution of the contract shall be spent on completing the schedule of projects included in the approved Restoration, Rehabilitation and Preservation Plan. The estimated cost of completing the schedule of projects shall be equal to or exceed the estimated property tax savings realized during this ten-year period. Subsequent property tax savings shall be spent to maintain and preserve the property and when necessary, restore and rehabilitate the property throughout the term of the contract.
 7. *Project Completion.* The specific projects included in the approved Restoration, Rehabilitation and Preservation Plan shall be completed during the first ten years following contract execution, as outlined in the schedule of projects. Throughout the term of the contract, maintenance and preservation projects and when necessary, restoration and rehabilitation projects shall be completed as needed to protect the structural integrity and historic and aesthetic value of the property. Projects not included in the approved schedule of projects shall be subject to the approval of a Certificate of Appropriateness in accordance with the Historic Preservation Ordinance and Design Guidelines.

On a yearly basis, City staff shall inspect the property to evaluate the status of approved projects and the general condition of the property. Inspections of the interior of structures shall be required when the schedule of projects includes interior work.

8. *Length of Mills Act Contract.* The term of a contract shall be a minimum of ten years. One year will automatically be added to the initial term of the contract each year on the anniversary date of the contract, unless the City or property owner files a notice of non-renewal sixty or ninety days prior to the anniversary, respectively. If a notice of non-renewal is duly filed, the existing contract shall remain in effect for the balance of the period remaining since the execution or last renewal of the contract.
9. *Findings.* To grant approval of a Mills Act contract, the City Council must make the following findings:
 1. That based on information contained in the program application including, but not limited to the Restoration, Rehabilitation and Preservation Plan, cost estimates, estimated tax savings to the property owner and other related information, the approval of the Mills Act contract will serve to compensate the City for the reduction in property taxes received.
 2. That the Restoration, Rehabilitation and Preservation Plan will extend the life of the structure(s), protect the historic and aesthetic value of the property, and comply 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 Historic Building Code; and the City of Pomona Municipal Code, Historic Preservation Ordinance and Design Guidelines.

City of Pomona
Revised and Restated Mills Act Historic Preservation Tax Abatement Program
Approved by City Council Resolution No. 2008-39 on April 21, 2008

LIST OF SUGGESTED PROJECTS

All projects must comply 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 Historic Building Code; and the City of Pomona Municipal Code, Historic Preservation Ordinance and Historic Preservation Design Guidelines. Projects may include, but are not limited to, the following:

Access Modifications – Exterior
Access Modifications – Interior
Accessory Structure – Repair or Replace with Historically Correct
Annual Maintenance and Repairs
Appliance Vent
Architectural Detail – Remove Non-historic Feature and Restore to Original
Architectural Trim – Repair or Replace with Historically Correct
Balcony/Decks – Install New Railings to Code
Balcony/Decks – Repair or Replace with Historically Correct
Basement – Repair, Rebuild or Install New
Basement Access – Repair or Replace
Cabinets and Counters – Repair or Install New in Bathroom or Kitchen
Chimney – Inspect and Clean
Chimney – Repair or Rebuild with Historically Correct
Code Repair Item
Column – Repair, Rebuild or Replace with Historically Correct
Corbels/Structural Brackets – Repair or Replace with Historically Correct
Door – Install New Basement Hatch Cover and Base
Door, Entry – Repair or Replace with Historically Correct
Door, Hardware – Repair or Replace with Historically Correct
Door, Screen – Repair or Replace with Historically Correct
Drain for Deck – Repair, Replace or Install New
Drainage – Protect or Correct
Dry Rot – Remove and Repair or Replace Structural or Architectural Element with Historically Correct
Eaves and Overhangs – Repair or Replace with Historically Correct
Electrical – Install Ground and Service Entry
Electrical – Install New Circuits
Electrical – Install New Service Lines to Garage
Electrical – Rewire and Upgrade Service
Electrical Fixtures – Repair or Replace with Historically Compatible
Electrical Outlets – Repair, Replace or Install New
Electrical Security Lighting and Alarm System – Repair, Replace or Install New
Fence or Wall – Repair or Replace with Historically Compatible
Flashing – Repair or Replace
Floor Furnace – Remove and/or Restore Floor
Flooring – Repair or Replace
Foundation – Perform Bolting and Seismic Work
Foundation – Repair, Rebuild or Replace with Historically Correct

Gable or Attic – Re-screen
Garage – Repair, Replace or Install New Historically Compatible
Garage Doors – Repair or Replace with Historically Compatible
Gutters and Downspouts – Repair or Replace
HVAC – Repair, Replace or Install New
Insulation – Install in Walls (Blown in)
Insulation – Install in Attic
Interior Trim – Refinish, Repair or Replace with Historically Correct
Landscaping – Install New
Masonry – Repoint, Repair, Replace or Install New Historically Correct
Mechanical, Air Conditioning – Repair, Replace or Install New
Mechanical, Heating – Repair, Replace or Install New
Mechanical, Venting and Duct Work – Repair, Replace or Install New
Painting – Interior or Exterior
Painting – Removal of Lead-Based Paint
Patio – Repair, Rebuild or Replace with Historically Correct
Paving, Driveways or Walkways – Repair, Replace or Install New Historically Compatible
Plaster – Repair, Refinish, Remove or Replace with Historically Correct
Plumbing, DWV (Drain, Waste and Vent) – Repair, Replace or Install New
Plumbing, Fixtures – Repair, Replace or Install New
Plumbing, Service Lines – Repair, Replace or Install New
Plumbing, Sewer – Repair, Replace or Install New
Porch – Repair, Rebuild or Replace with Historically Correct
Porch, Ceiling or Floor – Repair, Resurface or Replace with Historically Correct
Porch, Railing – Repair or Replace to Code
Roof – Repair, Re-roof, or Strip and Install New Historically Correct
Security Lighting and Alarm System – Repair, Replace or Install New
Seismic Retrofitting
Siding – Repair or Replace with Historically Correct
Siding, Asbestos – Remove and Replace or Repair Underlying Material
Skylights – Repair or Replace
Stairs – Repair or Replace
Stonework – Repair or Replace with Historically Correct
Stoop – Repair or Replace with Historically Correct
Structural Repairs or Replacement – Bracing, Framing, Joists, etc.
Substandard Construction – Remove
Termite Treatment and Repair Work
Tile – Repoint, Repair or Replace with Historically Correct
Utility Enclosure – Repair, Replace or Install New
Ventilation, Attic Fan – Repair, Replace or Install New
Waterproofing
Weatherproofing
Windows – Repair or Replace with Historically Correct
Windows, Screens and Hardware – Repair, Replace or Install New Historically Compatible