



City of Fullerton Mills Act Program, Guidelines & Application



Community & Economic Development Department
CITY OF FULLERTON | 303 WEST COMMONWEALTH AVENUE | FULLERTON, CA 92832



Mills Act Program Summary

Mills Act properties reflect the diversity of Fullerton's architectural and cultural heritage. The Mills Act Program is a partnership between the historic property owner and the City to preserve these important historic resources in our community. The Mills Act Program is intended to offset the costs of rehabilitation and maintenance of your historic property. Mills Act properties become the best representations of the commitment and care for historic buildings and we look forward to working with you to determine if the Mills Act Program is a good fit for you and your historic property. Should you have any questions about the Mills Act Program, please contact:

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The Mills Act Program is a voluntary historic preservation program, enabled by California Government Code, Article 12, Sections 50280-50290, established in 1972. The Mills Act allows a City to enter into a Historic Property Preservation Agreement (also referred to as a Mills Act Contract) with owners of qualified historic properties. Under the terms of the Mills Act Contract, the property owner agrees to preserve, maintain, and rehabilitate the historic property in conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and with local historic preservation standards.

Under a Mills Act Contract, the historic property is reassessed by the Orange County Assessor's Office to determine the "Historical Property Value." The Historical Property Value is based on the property's income-producing potential (generally from rental income) and is used to determine property taxes under the Mills Act Contract. The amount of property tax reduction varies based on each property's income-producing potential and current assessed value.

Eligible Properties

Pursuant to Section 439 of the Revenue and Taxation Code, a "qualified historical property" is defined as a privately owned property that is not exempt from property taxation and is listed on any national, state or local historic register. The Fullerton Plan contains several historic designations based on the level of significance, these designations include:

- National Register
- Local Landmark
- Significant Property
- Potential/Possible Significant Property
- Historic Districts / Preservation Zones



With the exception of Potential/Possible Significant Properties and properties within Preservation Zones, which would be determined on a case-by-case basis based on the age and historic/architectural integrity of the structure, properties listed in any of the above categories would be eligible for a Mills Act Contract subject to the additional eligibility criteria listed below.



Additional Eligibility Criteria -

- Property must be privately owned.
- Property must be subject to property taxation.
- Property must have an assessed valuation of less than \$800,000 dollars.
- Property must be residential in nature / use.

Mills Act Contract Responsibilities

The Mills Act is not intended to be a subsidy for those seeking to remodel their property or a tool to assist with mortgage payments. The purpose of the program is for the funds saved in property taxes to be utilized for the rehabilitation and maintenance of the property and all work must conform to the Federal Guidelines developed for the treatment of historic properties, known as the Secretary of the Interior's Standards for Rehabilitation. In general, the total cost estimate in your Rehabilitation/Maintenance Plan should equal the approximate amount of property tax savings over the first ten year term of the contract.

Under a Mills Act Contract, you are not required to return a building to its appearance during a specific historic period; however, you are required to complete work that supports the long-term preservation of the building. Examples of appropriate work items under a Mills Act Contract include:

- Seismic retrofit
- Re-roofing
- Plumbing repair/upgrades
- Electrical repair/upgrades
- Mechanical repair/upgrades
- Window repair
- Siding repair and repainting

All work must be related to the exterior or building systems. Cosmetic improvements to the interior of historic buildings, such as kitchen or bathroom renovations, are not considered eligible work items under the Mills Act Program. All work on a property with a Mills Act Contract must be in conformance with the Secretary's Standards. Property owners considering applying for a Mills Act Contract should first familiarize themselves with the applicable historic preservation regulations prior to submitting your application. For the application, property owners are required to submit a description of work, timeline, and cost estimates for rehabilitation of the property during the first ten year term of the Contract (see Rehabilitation/Maintenance Plan). Please note that the Rehabilitation/Maintenance Plan is binding on all future property owners, so it should address the critical preservation needs of the property and not the personal preferences of the property owner.

Mills Act Property Tax Assessment

Mills Act properties are re-assessed annually by the Orange County Assessor's Office through a methodology determined by the State of California. Under the Mills Act, three property values are determined:

1. Base Year Value, or the purchase price under Proposition 13 with an annual 2% rate of increase.
2. Fair Market Value, or the potential sale value of the property at the time of the assessment.



3. Historical Property Value, calculated as described below.

The Historical Property Value is based on the property's ability to produce income. For owner-occupied property, income is based on potential rental value. For multi-family properties, income is based on actual rent rolls. The property's income less expenses is then divided by a capitalization rate to establish the Historical Property Value.

The Assessor will base property taxes on the lowest of these three values. Depending on when the property was purchased and the assessed value, this generally results in a sizable property tax reduction. Entering into a Mills Act Contract does not guarantee a reduction in property taxes; you are most likely to benefit from a Mills Act contract if you have purchased the property within the past 10 years.

Mills Act Contract Terms

Mills Act Contracts run for a ten year term and are automatically renewed each year on the anniversary of the Contract's approval by City Council. In effect, the contract is always 10 years away from termination, unless the property owner or the City submits a notice of non-renewal. The property owner must provide written notice of non-renewal to the City at least 90 days prior to the renewal date, or another year is automatically added to the Contract. Following submittal of a notice of non-renewal, the contract will be terminated at the end of the current ten year term.

If the City finds that the property owner is in breach of the contract terms, the City may initiate proceedings to cancel the Contract. The property owner may also petition the City for immediate cancellation. A penalty of 12.5% of the property's assessed fair market value will be imposed for a cancelled contract. If you are unable to complete items on your Mills Act scope of work within the proposed timeline due to unforeseen circumstances, please contact City staff as soon as possible to discuss an amendment to the Rehabilitation/Maintenance Plan. The Mills Act Contract is a legally binding document recorded against the property. The Contract runs with the property and is binding on all future owners. Property owners are encouraged to seek independent counsel on the nature, extent, and duration of their rights and obligations under the contract terms.

Mills Contract Process

Application Submittal - Pursuant to the adopted guidelines, the City may process no more than ten (10) Mills Act Contracts per calendar year. Applications are accepted on a first-come, first-served basis and must be received no later than August 1st of each year. Applications are accepted by appointment only. Please contact Planning Division staff prior to submitting your application to discuss whether your property is a good candidate for a Mills Act Contract and to set up an appointment. Following receipt of the application and required fee, staff will review your application to determine if it is complete and meets the requirements of the Mills Act Program.



Pre-Approval Inspection and Pre-Contract Rehabilitation

- After your application has been reviewed, staff will schedule a pre-approval inspection. The pre-approval inspection is required under State law enabling the Mills Act Program and will include both the exterior and interior of the property. The property owner must be present for the inspection. The primary purpose of the inspection is to discuss what items, if any, are required to be completed pre-contract and what can be included in the proposed ten year Rehabilitation / Maintenance Plan. Pre-contract improvements are those that will return any lost historic



integrity and character to an altered residence in order to qualify the property for a Mills Act Contract. Properties with a high level of historic integrity may require only minor pre-contract work to qualify, and some of the improvements reference below may be deferred to be included in the Rehabilitation/Maintenance Plan. The most common pre-contract improvements include:

- Cleanup of unkempt or overgrown landscaping.
- Removal or replacement of incompatible fencing in front or visible side yards.
- Removal of window or wall air conditioning units that are visible from the public right-of-way.
- Removal of metal awnings that are not historic features of the residence.
- Removal of canvas awnings that obscure window sizes or shapes.
- Removal of security screen doors from the front door.
- Relocation of visible television antennas or dishes to not be visible from the public right-of-way, or removal if no longer in use.
- Removal of non-historic features added to front yards including inappropriate plantings, planters, or edging of incompatible style or material (ex. scalloped concrete edging).

Other potential pre-contract improvements in order to make the property more competitive for approval of a Mills Act Contract include:

- Replacement of a non-historic materials on exterior walls, such as inappropriate stucco over an earlier stucco finish or aluminum or vinyl siding over wood siding.
- Removal of any non-historic porches or porte-cocheres, porch features or cladding materials (such as tile or brick).
- Replacement of inappropriate metal or vinyl windows visible from the public right-of-way with windows that reproduce the historic details, including frame and casing. The new windows must be based on other intact examples on the house or, if all are missing, earlier photographic evidence or approved examples from houses of similar age and style.
- Broken, excessively dirty or worn window screens. Replacement screens should be wood-frame, if appropriate to the era or style of the house, or metal-frame screens painted to match the trim. Replacement with appropriate wood screens and hardware may be part of the Rehabilitation / Maintenance Plan.



City Council Review - After the pre-approval inspection, staff will prepare a report making a recommendation to the City Council regarding approval of the Mills Act Contract. Mills Act Contracts are presented to City Council at a regularly scheduled public hearing, typically in early December. The City Council is not required to approve all Mills Act contracts and may modify or reprioritize the Rehabilitation/Maintenance Plan based on preservation priorities. The City Council's decision on the Mills Act Contract is final. When the total number of Mills Act Contracts approved reaches 50, the City Council shall be required to adopt a Resolution reauthorizing the program and specifying how many additional Mills Act Contracts will be considered.

Contract Execution - After City Council approval of the Contract, the property owner must execute the Historic Property Preservation Agreement. The property owner must sign and have notarized the Agreement with the attached Notary Acknowledgement and return two original



copies to the City Clerk. The Mayor, City Attorney, and City Clerk will sign both copies of the Mills Act Contracts. The date on the Contract will be the date that City Council took action on approval of the Contracts. The property owner must then pick up both copies of the signed contracts from the City Clerk and have them recorded at the Orange County Clerk - Recorder Department (located at 12 Civic Center Plaza, Santa Ana, CA 92701) on or before December 31st. The property owner is required to pay all fees related to recording. Contracts must be recorded on or before December 31st to go into effect for the following tax year.

Property Tax Reduction - Following recording of the Contract, the Assessor's Office will re-assess the property using the Mills Act Historical Property Value. The Assessor typically re-assesses properties in the spring and summer following recording of the Contract. The property tax reduction may not be reflected in your property tax bill until the fall or winter after the Contract is recorded.

Mills Act Program Fees

The Mills Act Contract application processing fee is \$1,520, payable to the City of Fullerton. Following approval of the Contract, an annual processing fee of \$85 is required. Fees are subject to change by Resolution of the City Council and all fees are non-refundable.

Mills Act Contract Holder Obligations

Annual Progress Report - Under the terms of the Contract, the City requires property owners to submit an annual progress report describing the work completed on the property during the previous year. Progress reports are included in the application and available on the City's website and should be mailed to the following address:



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303 West Commonwealth Avenue, Fullerton, CA 92832

Five Year Inspections - Mills Act Contract properties are required to be inspected once every five years. Inspections will include the exterior and interior of the building, and the property owner must be present at the inspection. City Staff will contact the property owner in advance of the inspection period to set up a time and date for the inspection.

Ten Year Rehabilitation/Maintenance Plan - At least 90-days prior to the end of the first ten (10) year term of the Contract, the property owner is required to submit a Rehabilitation / Maintenance Plan for the next ten year term of the Contract. Any changes to the Rehabilitation / Maintenance Plan must be approved by City staff. Failure to comply with the terms of the Plan may result in termination of the Agreement.

Mills Act / Historic Preservation Resources

- Secretary of the Interior Standards – <https://www.nps.gov/tps/standards.htm>
- Fullerton Local History Room - https://www.fullertonlibrary.org/local_history/default.asp
- Fullerton Heritage - <https://www.fullertonheritage.org/>
- State Office of Historic Preservation - <https://ohp.parks.ca.gov/>
- Preserve OC - <https://www.preserveorangecounty.org/>

Frequently Asked Questions

Q: Is there a fee for the Mills Act Program in Fullerton?

A: There is a fee to apply for the Mills Act program. These fees are to cover the City's costs for preparing and reviewing the Mills Act Contract and preparing the associated reports and conducting inspections.

Q: How are my property tax savings calculated if I am awarded a Mills Act Contract?

A: There are a number of factors that contribute to a property tax savings calculation. For an explanation of how your property tax will be calculated and an estimate of how much you may save under the Mills Act Program, you may call the Mills Act contact at the Orange County Assessor's Office at: **(714) 834-2959**.

Q: When would I receive my property tax reduction?

A: Mills Act Contracts are awarded and recorded by the end of the calendar year. Tax savings are seen on the following year's tax bill. For example, if you are approved for the 2020 Mills Act Class your Contract would be recorded in December of 2020 and you would see your tax savings on your 2021 tax bill.

Q: What if I want to cancel my Mills Act Contract?

A: Mills Act Contracts may be canceled by the owner at any time. The owner will need to submit a letter to the City explaining their desire to end the Contract. The Mills Act Contract has a term of 10 years and automatically renews at the end of each year. Once the owner cancels their Contract, they will remain under Contract for the rest of the 10 year term. During that time, the owner will still be responsible for maintaining the historic integrity of their property, but their tax savings will gradually decrease.



Q: How is the program enforced?

A: All Mills Act Contracts are enforced through regular inspections, which evaluate everything visible from the public right-of-way. Mills Act property owners are notified of the inspection results by mail and told if they are in compliance or if there are outstanding issues that need to be resolved.

Q: What happens if a Mills Act property changes ownership?

A: Mills Act Contracts remain with the property. When a property with a Mills Act Contract is sold, the new owner will automatically assume the reduced tax rate and all the obligations of owning a Mills Act property. It is important that sellers of Mills Act properties disclose the Mills Act requirements to the new property owners, as well as any unfinished maintenance items from their 10-Year Rehabilitation / Maintenance Plan, as the new owners will be required to comply with the same requirements of the program.



Q: What happens if I do not fulfill my obligation under my Rehabilitation/Maintenance Plan or other contract provisions?

A: The City strives to work with property owners to stay in compliance with their Mills Act Contracts and to get back into compliance if any items require attention. However, if a property continues to remain out of compliance after a series of attempts by staff to remedy the situation, State law allows the City to cancel the owner's Mills Act Contract and fine the owner 12.5% of the fair market value of the property.

Q: Am I guaranteed a Mills Act Contract if I submit an application and complete all the pre-contract rehabilitation?

A: No. When a property owner applies for a Mills Act Contract, a Contract is never guaranteed, even if they complete every item described to them throughout the application process. The final decision whether to grant or not grant a Mills Act Contract is made by the City Council.