



CITY OF HAYWARD

Hayward City Hall
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Cover Memo

File #: LB 16-052, **Version:** 1

DATE: May 3, 2016

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT

Adoption of Ordinance Establishing the Hayward Mills Act Historical Property Contract Program

RECOMMENDATION

That the City Council introduces the attached Ordinance establishing the Hayward Mills Act Historical Property Contract Program and approves the attached Resolution finding that the proposed program is categorically exempt from CEQA and establishing a fee to administer such program.

BACKGROUND

The Mills Act was enacted by the State of California in 1976, granting local governments the ability to provide property tax abatements to the owners of qualified historical properties. In order for the owner to receive the property tax abatement, they must enter into an agreement with the City, committing to making capital improvements to rehabilitate, restore, preserve, or maintain the qualified historical property.

In 2014, the City adopted the Hayward 2040 General Plan. The General Plan directs the City to adopt a Mills Act Program by 2019 (GP Policy LU-8.9). Due to market demands, staff is moving the adoption of this program to this current fiscal year.

DISCUSSION

Program Overview

Hayward has some properties of historical significance that add to the City's character. Over the years many of these properties have fallen into less desirable states, some becoming blight on local neighborhoods.

The goal of the Hayward Mills Act Historical Property Contract Program is to help facilitate the rehabilitation, restoration, preservation, and maintenance of local historical properties to rejuvenate neighborhoods and increase property values. The Mills Act Program would facilitate these activities by allowing the City of Hayward to enter into agreements with the owners of qualified properties, reducing their property tax burden, in an effort to offset capital improvement costs for approved rehabilitation, restoration, preservation, and maintenance projects to the property in accordance with *Secretary of the*

Interior's Standards, and California Historical Building Code.

Eligible Properties

Qualified Historical Properties must be under private ownership, not exempt from property taxation, and must meet either of the following on or before December 31 of the year prior to the submission of an application:

- Listed in the National Register of Historic Places or located in a registered historic district;
- Listed in any State, County, or City register of historical or architecturally significant sites, places, or landmarks.

Contract Elements

California Government Code Sections 50281 and 50282 require each contract to include the following:

- Minimum term of ten years; and
- The owner's commitment and obligation to preserve and, when necessary, restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the State of California Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State historical building code; and
- The owner's permission for periodic examinations of the interior and exterior of the premises by state and local officials to verify contract compliance; and
- A provision binding all successors in interest of the owner to the benefits and burdens of the contract; and
- A requirement that the owner provide written notice of the contract to the Office of Historic Preservation within six months of entering into the contract; and
- Automatic annual renewal(s) of the contract, absent timely written notice of nonrenewal by the owner or the City as prescribed in California Government Code Section 50282; and
- A provision that the City may cancel the contract if it determines that the owner has breached any of its conditions or has allowed the property to deteriorate to the point that it no longer meets the standards applicable to a qualified historical property as defined in California Government Code Section 50286. The contract shall also state that if the City cancels the contract for either of the above reasons, the owner shall pay the county auditor a cancellation fee set forth in California Governmental Code Section 50286; and
- A provision that if, pursuant to an owner's application, the City Council determines that preservation, restoration, or rehabilitation has become infeasible due to damage of the property caused by a natural disaster or otherwise (e.g. earthquake, fire, etc.), the City may cancel the contract without the owner being required to pay the above referenced cancellation fee, to the extent that nonpayment is permitted by law.

Program Procedures

The deadline for submitting a Mills Act Contract Application is June 15 each year. This deadline has been set to allow City (and subsequently County) staff appropriate time to process applications and submit everything to the County Assessor in time to meet the January 1 County lien date.

Each application must be submitted to the Development Services Department, Planning Division. The Director of Development Services or his designee shall initially determine the eligibility of the property for a Historical Property Contract within sixty days of receipt of a complete application.

If the application is eligible for a Historical Property Contract, the Director of Development Services shall

prepare a recommendation to City Council to either approve or deny the application. Approval of an application requires a finding that the contract is consistent with and supportive of the General Plan goals and policies for historic preservation and the provisions of the ordinance.

Given that the program will decrease property tax revenues, the proposed ordinance provides direction to the Finance Director to conduct a fiscal impact analysis of every Mills Act Contract.

The City Council shall conduct a noticed public hearing to review the contract and the recommendations of the Director of Development Services and Director of Finance. The City Council has the full discretion to approve, disapprove, or modify the terms of the proposed contract. Where the City Council approves an application for a Historical Property Contract, the City Manager shall be authorized to sign and execute the contract. The City will complete annual compliance checks, for the life of the contract, in order to ensure the terms of the contract are being met.

Environmental Review: The Mills Act Program described in this report and enacted by the attached ordinance is a program to preserve historically significant property and is therefore categorically exempt from CEQA pursuant to Section 15723 of the California Environmental Act (CEQA) guidelines.

ECONOMIC AND FISCAL IMPACT

Property Tax Abatement Calculation

Mills Act Statute provides a formula for the property tax abatement in California Revenue and Taxation Code Section 439. The Mills Act contract will reduce the assessed value of the qualified historical property. The reduced assessed value, known as the restricted value, will come from the statutory formula:

$$\text{Restricted Value} = \text{Net Income} / \text{Capitalization Rate}$$

Net income is the gross fair rent that can be imputed to the property based on either actual rent received or what similar properties produce, less certain approved operating expenses such as maintenance, repairs, insurance, utilities, etc.

The capitalization rate, as California Revenue and Taxation Code Section 439.2 describes, is the sum of four components: Interest Component determined by the Board of Equalization for the prior year (4.25% for 2015); Historical property risk component equal to 2% (4% for single family dwellings); Property tax component equal to the property tax rate times the assessment ratio (assessment ratio=assessed value/market value); and Amortization component equal to the reciprocal of the remaining life of the structure, set by the County Assessor.

The adjusted property tax assessment is equal to the following:

$$\text{Adjusted Property Tax Assessment} = \text{Restricted Value} * \text{Property Tax Rate}$$

Attachment III provides a hypothetical calculation of a Mills Act Property Tax Abatement. The rates used in the calculation are only hypothetical and may not represent the actual rates used by the Alameda County Assessor.

The capital improvements made possible through a Mills Act Contract will bring many positive economic impacts to the Hayward community, primarily through the increase in property values of the qualified historical property and surrounding properties. Reducing the property tax burden of these properties has the ability to spur new investment, especially for qualified historic commercial and multi-family residential properties which in turn may have additional economic benefits including but not limited to the creation of new jobs.

The fiscal impact to the City is equal to the difference between the original property tax assessment and the adjusted property tax assessment times the City's percent portion of the Countywide property tax. The total fiscal impact of the overall program is impossible to estimate at this time. However, the ordinance requires that each contract undergo a fiscal analysis prior to Council approval.

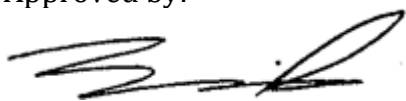
NEXT STEPS

Should Council introduce the attached ordinance, staff will present the ordinances for adoption at the Council meeting on May 17, 2016. The ordinance would be effective 30 days following adoption.

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Recommended by: Kelly McAdoo, Assistant City Manager
Sara Buizer, Planning Manager

Approved by:



Fran David, City Manager

Attachments:

- Attachment I Ordinance
- Attachment II Resolution
- Attachment III Hypothetical Calculation Example