

TO: HONORABLE CHAIRMAN AND PLANNING COMMISSION
FROM: WARREN FRACE, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: HISTORIC RESOURCE PRESERVATION AD HOC COMMITTEE
RECOMMENDATIONS
DATE: NOVEMBER 10, 2015

Needs: For the Planning Commission to consider recommendations of the ad hoc committee on Historic Resource Preservation.

Facts:

1. The City Council requested the Planning Commission address maintenance of historic structures at their meeting on March 5, 2015. The Planning Commission reviewed options to address historic preservation at their meeting on May 12, 2015.
2. The Commission requested staff facilitate an ad hoc committee composed of three Planning Commissioners and community members that may have expertise in various aspects of historic preservation, with the objective of providing recommendations on public outreach and education, preservation incentives and programs, and options regarding establishing a possible standing committee to review historic preservation issues.
3. The committee met in May, July, and August. Community members from the Historic Society and Mainstreet Association also participated at the meetings. Staff invited historic preservation staff from the City of San Luis Obispo to make a presentation to the committee at the meeting in August to learn about their experience administering a mature historic preservation program.
4. The ad hoc committee has concluded its review and is providing their recommendations on priorities and how to pursue historic preservation in Paso Robles. These recommendations are discussed in the analysis below.

**Analysis
and**

Conclusions: The ad hoc committee had several observations and has provided the following three recommendations to the Planning Commission:

1. Launch an outreach and education program geared toward all owners of historic structures and including the real estate industry, so that they are more informed on: 1) the historic status of their property; 2) responsibilities of owning a historic property; and 3) voluntary incentives available to assist historic property owners in maintaining their property (Mills Act).
2. It was suggested that the City host an historic preservation workshop, and prepare a newsletter and other educational materials to distribute to owners of historic properties. The focus of the workshop and materials would be to help the community: 1) understand the status of their property; 2) how the Historic Preservation Ordinance applies to their property should they wish to modify it; 3) benefits of owning an historic property; and 4) guidance on how to implement incentive tools, such as the Mills Act Program. If pursued, the City

may want to consider use of specialized consultants for this purpose. Materials on the Mills Act Program are provided in Attachment 1.

3. Establishment of a “standing” historic resources committee that is qualified to consider modifications to historic structures and make recommendations to the City Council, Planning Commission, Development Review Committee, and to also review Mills Act or other incentive programs and their implementation. It was recognized that at this point, there is limited historic preservation activity for the proposed committee review. Therefore, meetings of the committee would likely convene only a couple times a year, until such time as the historic preservation program matures.

Historic preservation staff from the City of San Luis Obispo were invited to make a presentation regarding how their historic preservation program is administered and operates. They came to the committee’s meeting in August. They provided details on how the Mills Act incentive program has worked in San Luis Obispo, including administration and reporting requirements, as well as the role of their Cultural Resource Preservation Commission (CRPC). The CRPC in reviews proposed modifications to historic structures as well as all Mills Act Program applications, and makes recommendations to the Architectural Review Commission, Planning Commission and City Council. The committee is composed of people who have a background in various aspects of historic preservation.

The staff from the City of San Luis Obispo also discussed their City’s participation in the California Preservation Foundation organization, in the Certified Local Government (CLG) program. If a community is member, it may be able to qualify for grant funds for activities such as historic preservation training, development of historic design guidelines, and other activities. Information on this program is provided in Attachment 2.

Potential Program Costs and Staff Support:

Support for implementation of this program will include use of staff resources for the following start-up and on-going activities. The following time and costs are rough estimates only. Start-up tasks and time could potentially be spread over a few years to reduce costs and impact on staff resources in a single year, however, it might affect community momentum with the program if it is spread out over time. Due to increasing planning entitlement applications, the current planning staff would not be able to allocate adequate time to supporting the committee.

Activity	Potential Hours		Potential Cost (\$153/hr)	
	Start-Up	On-going per year	Start-Up	On-going per year
Historic program research	40	40	\$6,120	\$6,120
Prepare and distribute education and outreach materials	120	20	\$18,360	\$3,060
Hosting a public education workshop	40	10	\$6,120	\$1,530

Activity	Potential Hours		Potential Cost (\$153/hr)	
	Start-Up	On-going per year	Start-Up	On-going per year
Application to the California Preservation Foundation	40	40	\$6,120	\$6,120
Work with individual property owners on Mills Act and/or other incentive programs (i.e. providing information on application process, tax calculations, etc.) [Note: this would be a non-reimbursable program.]	40	100	\$6,120	\$15,300
Providing staff resources to establish a standing committee (e.g. notices, staff reports, meetings, etc.);	120	40	\$18,360	\$6,120
Process historic preservation applications for historic building modifications, major alterations, demolitions, or designating buildings on local, state, or national landmark lists (through the Historic Preservation Committee, Planning Commission and City Council)	N/A	40 per application (reimbursed)	N/A	(-\$6,120 reimbursed)
On-going staff and Historic Preservation Committee training	25	10	\$3,825	\$1,530
Total	425	260	\$65,025	\$39,780

Options: The Planning Commission is requested to take one of the actions listed below:

- a. Forward the recommendations of the Historic Preservation Ad Hoc Committee to the City Council; or
- b. Amend, modify, or reject the above-listed action.

Attachments:

1. Mills Act Incentive Program Materials
2. Excerpt from the Certified Local Government Program



Historic Preservation Mills Act Program

A Tax Incentive Program for Preserving and Restoring Historic Property

In February 2011, the City Council adopted an Historic Preservation Ordinance. The ordinance includes historic preservation incentives to encourage "qualified historic properties" to be well maintained. Owners of historic property tend to take pride in their property, and may benefit from financial assistance in the cost to maintain it. Maintaining the City's historic resources will help ensure the rich history of Paso Robles continues into the future.

What is the Mills Act?

The Mills Act is a State law that allows cities to enter into contracts with the owners of "qualified historic property" to preserve, rehabilitate and improve their property, in exchange for a reduction in property tax.

The goal of the Mills Act is to provide property owners with tax savings to encourage them to invest in maintaining and restoring their historic property.



How it Works

Property owners work with the County Assessor to determine their property tax rate if their property was under a Mills Act agreement. The City also has property tax worksheet and tax calculation information available to assist property owners in determining their tax rate.

Once a contract is approved by the City Council, the property owner records their Mills Act agreement with the County Assessor.

The contract runs for 10 years and is automatically renewed annually for an additional year unless a notice of non-renewal is filed by the owner or City. Once a contract is terminated, the property owner's taxes increase over a 10-year period, to the standard rate based on the current assessed value of the property. Tax savings stay with the property and are transferred to new owners when the property is sold.

Property Eligibility

A qualified historical property is privately-owned (residential or commercial) property that is not exempt from property taxation.

To be eligible for applying for a Mills Act agreement in the City of El Paso de Robles, your property must be a City designated local, State or on the National register of historic landmarks. (A concurrent application for local landmark designation may be processed at the same time of applying for a Mills Act contract.)

The City's List of History Resources Inventory is on the City website at: www.prcity.com. The Mills Act Program is managed by the Community Development Department, Planning Division. For program information, please contact the Planning Division at (805) 237-3970 or by email at planning@prcity.com.



City of El Paso de Robles

Historic Preservation Mills Act Program

Frequently Asked Questions

1. If I own an historic property, am I obligated to participate in the program?

No. Participation is voluntary. The contracts are intended for property owners who have a strong commitment to historic preservation, and to assist property owners who plan to rehabilitate their property.

2. What is the term of Mills Act Agreement?

The contract is written for an initial term of 10 years. However, the contract automatically renews each year on its anniversary date for a new 10-year term. The contract, in effect runs in perpetuity with the land. The initial 10-year term is the period of time in which major rehabilitation projects should be substantially completed. If an owner desires to be released from the contract, a letter of non-renewal is submitted to the City. The owner is released from the contract 10 years after the notice of non-renewal is submitted.

3. How are my property taxes reduced?

Instead of basing your property tax on the purchase price of your property (Proposition 13, Base Year Value), the County Assessor reassesses your property on its ability (or potential ability) to produce income (Income Approach). Using the Income Approach, the Assessor values the property according to the capitalization of income, whereby the property's potential income is divided by a pre-determined capitalization rate to establish a new assessed property value to be taxed. The Income Approach for an owner-occupied property is based on its potential rental value. Commercial, industrial, or multi-family properties would have an actual income that is used for the calculation. A Mills Act Valuation Notice is sent annually to the property owner and the City. The notice will analyze three current components of the property: a) the Base Year Value which is the purchase price under Prop 13 (trended upward at 2% per year), b) the Fair Market Value (what the property is worth at the time of assessment) and c) the Mills Act Value. The Assessor is obligated to base the property tax levy on the lowest of the three components.

4. What type of property is likely to benefit?

Property purchased after 2000 is most likely to receive the highest reduction. Property purchased prior to 2000 will likely receive a minimal reduction. Property purchased prior to 1978 (Prop 13) is unlikely to receive a tax reduction. The Mills Act Agreement program does not guarantee a reduction amount for any property. Properties that have more recently sold (e.g. within the last 10 years) are likely to see greater tax reductions.

5. How much reduction will I receive?

The application Tax Adjustment Worksheet is provided to assist you in calculating the potential reduction on your property. Calculated accurately, it will provide you with an idea of your

potential reduction. It is not a guarantee. Remember that a reduction is based only on the General Tax Levy portion of your bill and DOES NOT reduce other district assessments of your tax bill.

6. What happens if I want to sell my property after I have a Mills Act Contract?

The contract will always remain with the property, and the new owner is obligated to meet the contract requirements. This can enhance the marketability of the property because it is not reassessed at its new market value when it is sold. Rather, new owners will likely pay property taxes based on the existing or proximate Mills Act Valuation notice. The new owner would be required to complete an outstanding rehabilitation or restoration work within the time remaining under the first 10-year term of the contract. It is always important for sellers and realtors to fully disclose the contract to potential buyers – both as an incentive to the property's rehabilitation, restoration and maintenance and to apprise them of their responsibility to perform under the terms and conditions of the agreement.

7. Are there potential penalties for property owners with a Mills Act Contract?

Yes. If a property is not maintained under the terms of the contract, is improperly altered, or if rehabilitation work is not performed, the owner could be found in breach of contract. If the breach of contract cannot be resolved to satisfy the contract, the Contract is cancelled and the owner is assessed a 12.5% penalty based on the current Fair Market Value of the property.

8. How long does it take to get a Contract?

Contracts are approved and recorded by the end of the application calendar year. Reassessments start after January 1 of the year following the contract recordation.

9. What portion of my property is obligated under a Contract?

The entire property is covered under a Mills Act Contract. The structure(s) both interior and/or exterior and grounds are required to be rehabilitated and maintained. Any work performed to the property must conform to the Secretary of the Interior's Standards for Rehabilitation and the California Historic Building Code.

10. How can I terminate a Contract?

The owner may terminate the contract by notifying the City at least 90 day prior to the annual renewal date. (The City may terminate a contract (with cause) by notifying the owner at least 60 days prior to renewal date. The owner may make a written protest about termination by the City. The contract remains in effect for the balance of the 10-year term of the contract beyond the notice of non-renewal.

11. What if I cannot afford to rehabilitate my property?

The Mills Act is an incentive program for properties needing rehabilitation work. The purpose of the Mills Act Contract is to assist owners in the rehabilitation of property. In many cases the cost of rehabilitation may be significantly higher than the amount of property tax saved. Owners are nonetheless obligated to rehabilitate and maintain the property. Failure to do so can lead to breach of contract and cancellation by the City.



City of El Paso de Robles

Historic Preservation Mills Act Program

How to Apply and the Approval Process

How to Apply for a Mills Act Agreement

- Confirm that your property is an eligible, historic property on the City's Historic Inventory List.
- Calculate the potential Property Tax Adjustment that may apply to your property, to determine if it would be a beneficial incentive for your property. (see separate Property Tax Adjustment Calculation Worksheet handout)
- Prepare a list of improvements that would be completed over the 10 year period of the agreement to submit with application.
- Submit a General and a Supplemental Applications with all application materials listed, including:
 - Property information
 - Description of the condition of the property
 - Description of alterations (if any) made to original property
 - Photographs of property & structure
 - Description of architectural theme
 - Description of architectural importance
 - Location Map
 - Plot Plan of Site
 - Processing fee
- Submit all materials to the Community Development Department, Planning Division.
- For questions call, (805) 237-3970.

Approval Process

- Once an application is submitted, the City will review the materials and determine if all the information required is complete and accurate. This will include a site visit. If the City needs to enter the site an appointment will be set up in advance with the applicant.
- When the application is determined to be complete, it will be scheduled for consideration by the Planning Commission.
- The Planning Commission will review the information on the existing condition of the property and the proposed list of improvements and make a recommendation to the City Council on whether to approve a Mills Act Agreement.
- The City Council will either approve or deny a proposal to enter into a Mills Act Agreement for the property.
- If the City Council approves a property owner to enter into a Mills Act Agreement, the City will prepare a Mills Act Agreement for approval by City and San Luis Obispo County.
- The Mills Act Agreement shall be recorded with the San Luis Obispo County Clerk Recorder's Office.
- The approval process should be complete within 8 to 10 weeks.



HISTORIC PRESERVATION MILLS ACT PROGRAM

SUPPLEMENTAL APPLICATION

1000 Spring Street
Paso Robles, CA. 93446
Phone: (805) 237-3970
Fax: (805) 237-3904
planning@prcity.com

Please submit the following information and a completed Community Development Department - Development Application Form to process a request for a Mills Act Historic Preservation Program Agreement. After the application for a Mills Act Agreement is received and reviewed by Planning Division staff, a public hearing will be held by the Planning Commission and referred to the City Council for approval. Once approved the Agreement will be forwarded to the SLO County Assessor Office to determine the new assessed property tax and recordation of the Agreement. Please contact the Planning Division if you have any questions at (805) 237-3970.

General Requirements for All Applications

1. **COMPLETED DEVELOPMENT APPLICATION FORM:** Must include property owner's signature on form.

2. **DEPOSIT:** As required by the City's Fee Resolution.

3. **PROPERTY INFORMATION:**

Common Name: _____

Historic Name and Date of Construction: _____

Property Address and APN: _____

Name of Property Owner: _____

Property Owner Address: _____

Present Use of Building or Site: _____

Original Use of Building or Site: _____

Listed in City of Paso Robles Historic Inventory? yes no

4. Description of the Existing Condition and Physical Appearance of the Site and Structure(s):
(A separate sheet may be attached.)

5. Description of Alterations to Original Structure(s):
(A separate sheet may be attached.)

9. Photographs of Property and Structure(s) from each direction and elevation: (attached)

10. Architectural Style/Theme:

11. Historic or Architectural Importance, Architect or Builder (include source of information):
(A separate sheet may be attached.)

12. Location Map and Plot Plan (attach)



City of El Paso de Robles

Historic Preservation Mills Act Program

Property Tax Adjustment Worksheet Guide

The following is an example showing the possible tax benefits to the historical property owner of an owner occupied single family dwelling. *This form is a Guideline only.* Your reduced property tax under a Mills Act Historic Preservation Agreement is not guaranteed to match this calculation.

EXAMPLE: Single Family Dwelling
Current Assessed Value (General Levy Taxes Only*) = \$100,000
Estimated Monthly Rent **= (See Property Tax Calculation Worksheet)

A. DETERMINE ANNUAL INCOME AND ANNUAL OPERATING EXPENSES

[\$800 per month income minus approximately \$100 per month expenses for maintenance, repairs, insurance, utilities, and gardener equals a net income of \$700 per month. Multiply by 12 months for an annual net income of \$8,400. (*Mortgage payments and property taxes are not considered expenses.*)

B. DETERMINE CAPITALIZATION RATE

Add the following together to determine the Capitalization Rate:

The Interest Component is determined by the Federal Housing Finance Board and is based on conventional mortgages. While this component will vary from year to year, the State Board of Equalization has set this at 5.0% for 2011.

The Historical Property Risk Component of 4% (as prescribed in Sec. 439.2 of the State Revenue and Tax Code) applies to owner-occupied single family dwellings. A 2% risk component applies to all other properties.

The Property Tax Component (Post-Prop 13) of .01 times the assessment ratio of 100% (1%).

The Amortization Component is a percentage equal to the reciprocal of the remaining life of the structure and is set at the discretion of the County Assessor for each individual property. In this example the remaining life of a wood frame building is typically 20 years. The amortization component is calculated thus: $100\% \times 1/20 = 5\%$. Use 5% for your calculation.

Now add the following: $5.00\% + 4.0\% + 1.0\% = 15\%$ Capitalization Rate (Single family dwelling)

C. CALCULATED NEW ASSESSED VALUE AND ESTIMATED TAX REDUCTION

The new assessed value is determined by dividing the annual net income (\$8,400) by the capitalization rate .1500 (15.00%) to arrive at the new assessed value of \$56,000.

Lastly, determine the amount of taxes to be paid by taking .01 (1%) of the assessed value \$56,000. Compare with the current property tax rate for land and improvements only (be sure not to include voter indebtedness, direct assessments, tax rate areas and special district items on your tax bill):

- **Current general levy property tax: 1% of original assessed valuation of \$100,000 (\$100,000 x .01 = \$1,000)**
- **Mills Act property tax: 1% of new assessed value of \$56,000 is \$650**

Annual property taxes have been reduced by \$440 (\$1,000 minus \$560), and approximately 44% property tax reduction.

*The Mills Act applies ONLY to general levy property taxes. Be sure to DECUCT the portions of your tax bill that include sewer assessment, bond issues, etc. when calculating what portion of your property tax will be reduced by the Mills Act.

**Single family applicants may find that a realtor can assist in determining a monthly rental figure.

***SEE PROPERTY TAX ADJUSTMENT CALCULATION WORKSHEET GUIDE TO HELP CALCULATE INDIVIDUAL PROPERTY TAX REDUCTION.**



City of El Paso de Robles

**Historic Preservation
Mills Act Program**

Property Tax Adjustment Calculation Worksheet Guide

Property Address: _____

STEP 1: DETERMINE ANNUAL INCOME OF PROPERTY

ANNUAL PROPERTY INCOME	AMOUNT	EXPLANATION
1. Monthly Rental Income		Even if property is owner-occupied, an estimated monthly rental income is needed as a basis for this formula.
2. Annual Rental Income	0.00	Multiply line 1 by 12

STEP 2: CALCULATE ANNUAL OPERATING EXPENSES

ANNUAL OPERATING EXPENSES	AMOUNT	EXPLANATION
3. Insurance		Fire, liability, etc.
4. Utilities		Water, Gas, Electric
5. Maintenance*		Maintenance includes: painting, plumbing, electrical, gardening, cleaning, mechanical, heating repairs, and structural repairs.
6. Management*		
7. Other Operating Expenses		Security services, etc. Provide a breakdown on separate sheet as necessary.
8. Total Expenses**	0.00	Add lines 3 through 7

STEP 3: DETERMINE ANNUAL NET INCOME

NET OPERATING INCOME	AMOUNT	EXPLANATION
9. NET TOTAL	0	Line 2 minus line 8

*If you are calculating for commercial property, remember to provide the following documentation where applicable:

- Rent Roll (include rent for on-site manager's unit as income, if applicable)
- Maintenance Records (provide detailed break-down – all costs should be recurring annually)
- Management Expenses (include expense of on-site manager's unit and 5% off-site management fee; and describe other management costs – provide breakdown on separate sheet).

**Annual operating expenses do not include mortgage payments, property taxes, depletion charges, corporate income taxes or interest on funds invested in the property.

STEP 4: DETERMINE CAPITALIZATION RATE

CAPITALIZATION RATE	AMOUNT	EXPLANATION
10. Interest Component	5.00%	As determined by the State Board of Equalization for 2011
11. Historic Property Risk Component	0.00%	Single family home = 4% (SFD)
12. Property Tax Component	1%	.01 times the assessment ratio of 100%
13. Amortization Component (Reciprocal of life of property)	0.00%	If the life of the improvements is 20 years use 100% x 1/20 = 5%
14. TOTAL = CAPITALIZATION RATE	6.00%	Add lines 10 through 13

STEP 5: CALCULATE NEW ASSESSED VALUE

NEW ASSESS VALUE	AMOUNT	EXPLANATION
15. Mills Act Assessed Value	0.00	Line 9 divided by line 14 Example: Line 9 ÷ 0.1500 (15.00) SFD
16. Current Assessed Value	0.00	

STEP 6: DETERMINE ESTIMATED TAX REDUCTION

NEW TAX ASSESSMENT	AMOUNT	EXPLANATION
17. Current Tax (1% of line 16)	0.00	General tax levy only
18. Tax under Mills Act	0.00	Line 15 x .01
19. ESTIMATED TAX REDUCTION	0.00	Line 17 minus line 18



City of El Paso de Robles

Historic Preservation Mills Act Program

Sample Improvement Projects

The following are sample historic preservation improvement ideas that property owners may want to consider. This list is illustrative, and not inclusive of all potential improvements that property owners may be interested in completing under their Mills Act Agreement. All improvements shall be completed with the intention of maintaining the structural and site historic character.

Balcony - repair upgrade, repaint, install	Patio - repair, replace, rebuild in-kind, repaint
Barn - repair, upgrade, repaint, convert	Porch - repair, replace, rebuild in-kind
Basement - repair, upgrade, repaint, convert	Porch railings - repair, replace, rebuild, repaint
Cabinets - repair, replace, install (kitchen, bathroom, etc.)	Plumbing - repair, upgrade, replace
Carpet - replace, install	Remove existing un-historic features
Ceilings - restore	Roof - repair, re-roof, repaint, replace (house, garage, barn, shed, etc.)
Deterioration - remove, repair, restore	Seismic retrofit
Driveway - replace, repave, upgrade	Siding - repair, restore, repaint
Dry rot - remove, repair	Skylight - install, replace
Doors - repair, replace, upgrade, rescreen	Stairs - repair, replace, repaint
Eaves - repair, repaint	Stairway - repair, replace, repaint
Electrical - install, rewire, new outlets	Stucco - repair, replace
Exterior trim - repair, repaint	Tenant Improvements - commercial
Fencing - repair, install, repaint, upgrade	Termites - remove, treat damage
Fireplace - repair, restore	Tile - repair, replace
Fixtures - repair, replace in kind, restore	Trellis - install, repair, repaint
Flooring - remove & restore, refinish repair, carpet	Ventilation - repair, replace (interior / exterior)
Foundation - repair, install	Walkways - install, repair
Garage door - repair, replace, upgrade, install	Walls - restore, repaint, wallpaper
Insulation - install	Water seal
Irrigation - install, repair	Windows - repair, replace with conforming, re-screen
Landscape - plant, re-plant, remove overgrowth (front, back, side yards)	Window frame - repair, replace with conforming
Lighting - install, upgrade	Window transoms - repair, restore
Paint - interior, exterior, eaves	

**SAMPLE
RESOLUTION**

**APPROVING AN HISTORIC PROPERTY PRESERVATION AGREEMENT
BETWEEN THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA
AND (property owners' name), OWNERS OF A DESIGNATED HISTORIC RESOURCE
AT (property address & APN)**

”

WHEREAS, the City Council of the City of El Paso de Robles is authorized by California Government Code Section 50280 et seq. (known as the “Mills Act”) to enter into contracts with the owners of qualified historical properties to provide for appropriate use, maintenance, and rehabilitation such that these historic properties retain their historic characteristics; and

WHEREAS, the City Council has adopted Resolution No. ____ establishing the Mills Act Historic Property Tax Incentive Program as an on-going historic preservation program to promote the preservation, maintenance and rehabilitation of historic resources through financial incentives; and

WHEREAS, the owners possess fee title in and to that certain qualified real property, together with associated structures and improvements thereon, located on Assessor’s Parcel Number ____ at ____ Paso Robles, California, 93446, hereinafter referred to as the “historic property”; and

WHEREAS, the City Council of the City of El Paso de Robles has designated this property as an historic resource of the City of El Paso de Robles pursuant to the City’s Historic Resources Survey and Inventory, and the Historic Preservation Ordinance; and

WHEREAS, The City and owners, for their mutual benefit, now desire to enter into this agreement to limit the use of the property to prevent inappropriate alterations and to ensure that character-defining features are preserved and maintained in an exemplary manner, and repairs and/or improvements are completed as necessary to carry out the purposes of California Government Code, Chapter 1, Part 5 of Division 1 of Title 5, Article 12, Sec. 50280 et seq., and to qualify for an assessment of valuation pursuant to Article 1.9, Sec. 439 et. seq. of the Revenue and Taxation Code.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of El Paso de Robles as follows:

Section 1. Historic Preservation Agreement is approved. The City Council hereby approves the attached historic preservation agreement between the City of El Paso de Robles and the owners.

Section 2. The Mayor is authorized to sign this agreement for the City of El Paso de Robles. The City Council hereby authorizes the Mayor to execute said agreement on behalf of the City of El Paso de Robles.

Section 3. Environmental Determination. The City Council has determined that this historic preservation agreement is not a project, as defined by Section 15378 of the California Environmental Quality Act, and is exempt from environmental review.

Section 4. Recordation of this Agreement. No later than thirty (30) days after the parties execute and enter into said agreement, the City Clerk shall cause this agreement to be recorded in the Office of the County Recorder of the County of San Luis Obispo.

PASSED AND ADOPTED THIS ___ day of _____ by the following Roll Call Vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk

EXHIBIT A

WHEN RECORDED, RETURN TO:

City of El Paso de Robles
1000 Spring Street
Paso Robles, CA 93446

Attn: Community Development Director

MILLS ACT AGREEMENT

THIS AGREEMENT (“Agreement”) is made and entered into this ___ day of ____, 20__, (the “Effective Date”) by and between the City of El Paso de Robles, a municipal corporation (hereinafter referred to as the “City”), and _____, (hereinafter referred to as “Owner”), and collectively referred to as the “parties”.

Recitals

A. The City enacted Ordinance No. 972 N.S. thereby adding Chapter 21.50 to the Paso Robles Municipal Code to encourage the preservation of historic properties within the City. One of the historic preservation incentives included in Chapter 21.50 is the authority for the City to enter into contracts under the Mills Act (Gov’t. Code §50280 *et seq.*) (the “Mills Act”).

B. Owner is the owner of property at _____ [insert address] _____ (the “Property”) that has been designated by the [City, State, federal government] as an _____ [Historic Landmark; historic Resource, etc.] _____.

Agreements

Section 1. **Incorporation of Recitals.** All of the above recitals are true and correct and are hereby incorporated in this Agreement.

Section 2. **Description of Preservation Measures.** Owner hereby agrees to undertake and complete, at its sole cost and expense, the preservation, maintenance and improvement measures on the Property as described in “Exhibit A”, attached hereto and incorporated herein by reference.

Section 3. **Effective Date and Term of Agreement.** This Agreement shall be effective and commence upon the Effective Date set forth above, and shall remain in effect for an initial term of ten (10) years.

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Mills Act Agreement

- E. Owner agrees that property tax savings resulting from this Agreement shall be used for property maintenance and improvements as described in Exhibit A.
- F. The following are expressly prohibited: demolition or partial demolition of the historic Property or accessory buildings; exterior alterations or additions not in keeping with the standards listed above; dilapidated, deteriorating or unrepaired structures such as fences, roofs, doors, walls, windows; outdoor storage of junk, trash, debris, appliances, or furniture visible from a public way; or any device, decoration, structure or vegetation which is unsightly due to lack of maintenance or because such feature adversely affects, or is visually incompatible with, the Property's recognized historic character, significance and design, as determined by the Community Development Director.
- G. Owner shall allow reasonable periodic examination, by prior appointment, of the interior or exterior of the Property by representatives of the County Assessor, the State Department of Parks and Recreation, the State Board of Equalization, and the City, as may be necessary to determine Owner's compliance with the terms and provisions of this Agreement.

Section 6. **Furnishing of Information.** The Owner hereby agrees to promptly furnish any and all information requested by the City which City reasonably deems necessary or advisable to determine Owner's compliance with the terms and provisions of this Agreement.

Section 7. **Cancellation of Agreement for Owner Breach.**

- A. The City, following a duly noticed public hearing by the City Council, as required by Government Code Section 50285, may cancel this Agreement if it determines that Owner has breached any of the conditions of this Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historic property; or if the City determines that the Owner has failed to preserve, maintain or rehabilitate the Property in the manner specified in Section 5 of this agreement. If the Agreement is cancelled because of failure of the Owner to preserve, maintain, and rehabilitate the Property as specified above, Owner shall pay a cancellation fee in the amount and manner set forth in Government Code Section 50286, as it may be amended from time to time.
- B. If the Property is acquired by eminent domain and the City Council determines that the acquisition frustrates the purpose of the Agreement, this Agreement shall be canceled and no fee imposed, as specified in Government Code Section 50288.

Section 8. **Enforcement of Agreement.**

- A. In lieu of and/or in addition to any provisions to cancel the Agreement as referenced herein, the City may specifically enforce, or enjoin the breach of, the terms of the Agreement. In the event of a default, under the provision to cancel the Agreement by the Owner, the City shall give written notice of violation to the Owner by registered or certified mail to the address set forth in Section 10 below. If such a violation is not corrected to the reasonable satisfaction of the Community Development Director or designee within thirty (30) days thereafter; or if not corrected within such a reasonable time as may be required to cure the breach or default of said breach; or if the default cannot be cured within thirty (30) days thereafter (provided that acts to cure the breach or default may be commenced within thirty (30) days and shall thereafter be diligently pursued to completion by the Owner); then the City may, without further notice,

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elected and appointed officials, officers, agents, and employees with respect to any and all claims or actions for damages caused by, or alleged to have caused by, reason of the Owner's activities in connection with the Property, excepting however any such claims or actions which are the result of the sole negligence or willful misconduct of the City, or its officers, agents or employees.

- C. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, and costs of defense incurred, by reason of the operations referred to in this Agreement regardless of whether or not the City prepared, supplied, or approved the plans, specifications, or other documents for the property.
- D. All of the agreements, rights, covenants, reservations, and restrictions contained in this Agreement shall be binding upon and shall inure to the benefit of the parties herein, their heirs, successors, legal representatives, assigns, and all persons acquiring any part or portion of the Property, whether by operation of law or in any manner whatsoever.
- E. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.
- F. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected thereby.
- G. This Agreement shall be construed and governed in accordance with the laws of the State of California.
- H. Owner agrees it shall pay City, as a condition to entering into this Agreement, all necessary and reasonable fees to recover City's costs of executing, recording and administering this Agreement.

Section 12. **Amendments.** This Agreement may be amended, in whole or in part, only by a written recorded instrument executed by the parties hereto.

Section 13. **Recordation of Agreement.** No later than twenty (20) days after the Effective Date, the City shall cause this Agreement to be recorded in the office of the County Recorder of the County of San Luis Obispo.

[Signatures on following page]

STATE OF CALIFORNIA)

) ss

COUNTY OF SAN LUIS OBISPO)

On _____, 2011, before me, _____ (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

2010

California Office of Historic Preservation
Department of Parks & Recreation
Local Government Assistance



1416 9th St,
Rm 1442-7
Sacramento CA 95814

PO Box 942896
Sacramento CA
94296-0001

phone:
(916) 653-6624
fax:
(916) 653-9824

email:
calshpo@parks.ca.gov
website:
www.ohp.parks.ca.gov



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which is responsible for the National Historic Preservation Program. Becoming a CLG can provide local staff and commissions the tools, technical training, and more meaningful leadership roles in the preservation of the community's cultural heritage. Local interests and concerns are integrated into the official planning and decision-making processes at the earliest possible opportunity.

In response to the federal government's 1995 initiative for simplifying the National Park Service's oversight of the national historic preservation program, the NPS revised 36 CFR 61 to provide each state with greater discretion in carrying out the responsibilities mandated in the National Historic Preservation Act. Decisions on membership requirements for local preservation commissions are left entirely to the states. The requirement that local preservation commissions consult outside professionals in certain instances is eliminated.

Who Can Apply for Certified Local Government Status?

Any local government is eligible to apply to the State Historic Preservation Officer (SHPO) for certification. A local government is any general purpose political subdivision of California such as a city, county, or city/county; or any other general purpose political division of the state with the exception of regional commissions, councils of governments, and special districts. It is important to be aware that certification pertains to the entire local government and its agencies, not simply to the preservation commission that serves the local government.

When Are CLG Applications Accepted?

Local governments may apply for CLG status at any time. However, in order to apply for grants through the CLG program, a local government must be certified prior to the grant application deadline which is usually the last week of April. Note that the CLG grant application process is separate from the certification application and requires completion of a grant application form.

What are the Procedures for Certification?

Prior to submitting an application or obtaining the elected officials' authorization, OHP encourages the local government representative to consult with the Local Government Unit of the California State Office of Historic Preservation and submit a draft application for a preliminary review to ensure that the local government's preservation program meets the state requirements and National Park Service CLG program criteria.

Once the draft application has been approved, the chief elected official of the local government applying for CLG status shall request certification from the California State

CLG. It is a communication and networking tool that offers the Office of Historic Preservation and CLGs the opportunity to submit suggestions or questions to other members of the listserv. SHPO staff also uses the listserv to forward information about training opportunities, publications, grants, and a variety of technical assistance to CLGs.

Streamlining: The use of the National Register/California Register criteria and the Secretary of the Interior Standards integrates local, state, and federal levels of review. It brings clarity to the question of what resources are significant when it comes to CEQA and Section 106 of the National Historic Preservation Act. Adopting the Secretary of the Interior's Standards will allow the use of categorical exemptions under CEQA, and likely result of findings of no adverse effect under Section 106. The use of these criteria and standards make environmental review faster, more efficient, and reduces costs and delays.

Involvement: The CLG program brings local preservation boards and commissions into broader local land use planning and project approval processes. CLGs have the responsibility to involve their boards/commissions in the CEQA and Section 106 review process, as well.

Funding: Each state is required to pass through 10% of its annual Historic Preservation Fund grant from the National Park Service to CLGs to fund their preservation activities. California has chosen to make this money available to CLGs for a wide variety of preservation planning activities through a competitive grant program. This funding is not a large amount – grants range between \$5000 and \$25,000 – but it can support important activities including completion of a preservation element or plan, developing a historic context, conducting a survey, preparation of a National Register district application, or the update of an ordinance. Work funded by a CLG grant is expected to conform to state and federal standards.

Autonomy: When your local government decides to become a CLG, it agrees to carry out the intent of the NHPA and the Secretary of the Interior's Standards. Recognizing that individual local governments and individuals employed by those local governments often do not have all the background, training, and skills to achieve a good balance between development and preservation, SHPO reviews the structure and processes of the local preservation program, and may comment on or make suggestions about strategies a local government can use to accomplish its goals and objectives. Beyond that, neither the NPS nor SHPO have any regulatory authority over local governments.

Neither the NPS nor SHPO dictate the content of historic preservation plans or ordinances; neither the NPS nor SHPO review nor is their approval needed prior to the selection and appointment of individual local preservation commissioners by local government officials. In no way is the autonomy of a local government decreased by becoming a CLG. However, a CLG may be decertified if it establishes policies or adopts practices that violate the intent of the National Historic Preservation Act.

Enforce appropriate state and local legislation for the designation and protection of historic properties.

CLGs must enact and enforce a local historic preservation ordinance. State enabling legislation, found at California Government Code Sections 65850, 25373, and 37361, provides for local jurisdictions to enact appropriate historic preservation legislation. Additionally, the local legislation shall be consistent with the intent and purpose of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).

Along with other local governments, CLGs must enforce the California Environmental Quality Act (CEQA) regulations in relation to historical resources, and participate, as appropriate, in the environmental review of federally-sponsored projects under Section 106 of the National Historic Preservation Act of 1966, as amended.

Designation refers to the identification and registration of both historic and prehistoric properties for purposes of protection using criteria established by the local government. Designation requirements and procedures must be consistent with the Secretary of the Interior's Standards for Identification and Registration. Adoption of criteria that closely follows the National Register of Historic Places and the California Register of Historical Resources is encouraged.

Protection refers to the local review process under local law for proposed demolition of, changes to, or other action that may affect properties that have been designated pursuant to the local ordinance. This would not include properties listed on or determined eligible for the national Register of Historic Places or California Register of Historical Resources unless those properties were also designated under the local designation process.

The CLG will prepare a comprehensive local historic preservation plan or preferably, a historic preservation element in the community's general plan. The plan or element will identify preservation missions, goals, and priorities and will establish preservation strategies, programs, and time schedules. It will also be used to support and justify CLG grant applications.

The CLG is encouraged to adopt and implement the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* relevant to CLG need and activities (www.nps.gov/history/local-law/arch_stnds_0.htm).

Establish a qualified historic preservation review commission by local law.

A qualified historic preservation review commission means a board, council, committee, commission or other similar body established by local legislation whose primary purpose is historic preservation and whose membership includes a minimum of five (5) individuals, all of who have a demonstrated interest in, competence or knowledge in historic preservation.

Evaluative criteria must be consistent with the National Register of Historic Places and the California Register of Historical Resources, and conform to the Secretary of the Interior's Standards for Identification and Evaluation. (This policy does not apply to survey data produced before the effective date of CLG certification.).

Communities which have conducted surveys in the past must periodically update their survey data as new resources become eligible for consideration, or when older surveys warrant re-examination over time. CLGs are required to submit survey updates and new surveys to OHP for inclusion in the statewide database.

The CLG commission shall establish internal procedures to facilitate the use of survey results in the planning process by the CLG officials and departments. The commission shall submit survey results to the local government for adoption, then forward to OHP. Copies of the survey results must be made available to the public, with the exception of certain sensitive historic and prehistoric sites and should be on deposit at the local planning department, building and safety office, public works department, and redevelopment agency. Local libraries, colleges, and historical societies should also receive copies. SHPO will make copies available for the appropriate CHRIS regional center.

Provide for adequate public participation in the local historic preservation program

Public participation is an integral feature of any preservation program and the CLG shall provide opportunities for public participation in all CLG programs and activities.

The CLG will encourage public participation at commission meetings. All local preservation commission meetings must be open to the public and meet the requirements of the Ralph M. Brown Act for open meetings (California Government Code Section 54950 et seq.). Meeting agendas and minutes of commission meetings must be publicly available.

Public participation shall be encouraged in the CLG's survey program at all levels of responsibility to identify and inventory significant cultural resources. Survey results shall be a public record and on file at a public institution, with the exception of archeological and other sensitive sites.

The local government must provide for public participation in the CLG's process for evaluating properties for nomination to the National Register of Historic Places.

The CLG shall encourage the public to participate in the review of projects and undertakings subject to the California Environmental Quality Act and Section 106 of the National Historic Preservation Act.

- The SHPO specifies to the CLG in writing ways to improve performance with a period of time by which deficiencies must be corrected or improvements must be achieved; and
- After the period of time stipulated by the SHPO, the SHPO determines that there has not been sufficient improvement.

Failure to perform acceptably under a Historic Preservation Fund grant is not in itself sufficient grounds for decertification. The SHPO must notify the CLG in writing prior to or at the time of its recommendation to NPS for decertification. The notification must state the specific reasons for the proposed decertification, describe the SHPO's technical assistance efforts, and affirm that the SHPO will notify the CLG of the NPS concurrence with the decertification.

The SHPO may also recommend decertification if a CLG requests in writing to be decertified. The SHPO must forward a copy of the CLG's letter as an enclosure to the SHPO's request to decertify the CLG.

If the CLG had been delegated Section 106 responsibilities in its jurisdiction by the State, and a Programmatic Agreement had been executed by the Advisory Council on Historic Preservation (ACHP), then the SHPO must notify the ACHP that the CLG has been decertified.

The effective date of decertification is when the National Park Service concurs in writing with the SHPO's recommendation to decertify the CLG. If the local government wishes to become recertified it must reapply for certification.

What about the CLG Grants Program?

OHP is required by federal law to pass through at least 10% of its annual Federal Historic Preservation Fund (HPF) allocation to Certified Local Governments for historic preservation planning projects and programs which promote the identification, evaluation, nomination, and preservation of their communities' significant cultural resources and are consistent with the Statewide Historic Preservation Plan. Bricks and mortar projects are not eligible.

The annual grant cycle begins with the notification to all CLGs of the funding availability in January of each year. Grant applications are due at the end of April and the recipients are announced by June. Grant funded projects are to begin October 1 and must be completed by the following September. CLG grants are awarded on a competitive basis in amounts from \$2,500 - \$25,000. Cash or in-kind match is required: 60% Federal/40% applicant.

The CLG grants program manual and grant application is available on OHP's website at www.ohp.parks.ca.gov/?page_id=24493. The grants manual is updated annually to reflect statewide preservation priorities, Consult the manual for detailed information