

ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

Agenda Item #10 July 24, 2012

Chris Bazar  
Agency Director

July 9, 2012

Albert Lopez  
Planning Director

Honorable Board of Supervisors  
Administration Building  
1221 Oak Street  
Oakland, CA 94612

224  
West Winton Ave  
Room 111

Hayward  
California  
94544

Dear Board Members:

**SUBJECT: IMPLEMENTATION OF THE HISTORIC PRESERVATION  
ORDINANCE**

phone  
510.670.5400

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510.785.8793

**RECOMMENDATION:**

That the Board hear a brief staff presentation, take public testimony, and adopt the resolution amending the Planning Department's Fee Schedule and directing staff to establish a Mills Act Program and procedures for documenting historic resources.

www.acgov.org/cda

**DISCUSSION/SUMMARY:**

*Introduction*

The Historic Preservation Ordinance (HPO) became effective on February 10, 2012. The following paragraphs discuss next steps needed to implement the Ordinance.

*Mills Act Program*

The Mills Act is a preservation incentive adopted by California in 1976 that allows reductions of property tax assessments for designated historic properties if the owner signs a contract with the local government agreeing to preserve the property, maintain its historic characteristics, and (if necessary) restore the property for single family residences or income-producing commercial properties. Such a program has the potential to help restore and preserve historic properties countywide. By providing property tax relief for designated properties in need of maintenance and repair, together with those which are blighted or run-down, it can encourage property owners to make needed repairs. Property owners' participation in the program is voluntary.

Many Bay Area municipalities are using the Mills Act to revitalize their communities.<sup>1</sup> In some jurisdictions, a Mills Act program has acted as a catalyst for neighborhood revitalization since property owners who enter into a contract are obligated to prevent deterioration of the property in addition to complying with any specific restoration or rehabilitation provisions contained in the contract.

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<sup>1</sup> Bay Area cities with an adopted Mills Act Program include Belvedere, Berkeley, Danville, Fremont, Larkspur, Morgan Hill, Orinda, Redwood City, San Francisco, San Jose, San Mateo, and Sunnyvale.

Section 17.62.310 of the Historic Preservation Ordinance establishes a Mills Act program for unincorporated Alameda County pursuant to California Government Code Section 50280, etc seq. In order to administer the Mills Act Program, staff has prepared application materials; a notice of non-renewal form; a draft resolution and a contract boilerplate. The Alameda County Parks, Recreation and Historical Commission (PRHC) reviewed a draft of this document at their March 1, 2012 meeting, and recommended that the matter be forwarded to the Planning Commission for action. Similarly, the Planning Commission voted in favor of the program documents at their May 21, 2012 meeting. In addition, this item has been presented before the Board's Transportation and Planning and Unincorporated Services Committees.

#### *Guide to Preparing Historical Resource Reports*

As much of the Ordinance is devoted to the documentation and recognition of historic resources, staff thought that it would be useful to produce a guide that would describe the County's requirements for the preparation and submission of research on historic resources. Such information is required for the nomination of historic resources to the County's Register, as well as for consideration of Mills Act contracts. A draft of this document was reviewed by the PRHC at their April 5, 2012 meeting, and they directed staff to send the item along to the Planning Commission for consideration. Likewise, the Planning Commission reviewed this document at their May 21, 2012 meeting and voted to support the document. In addition, this item has been presented before the Board's Transportation and Planning and Unincorporated Services Committees.

#### *Fees*

Staff has researched fees for establishing and monitoring a Mills Act Contract, as well as designating a historic property, and found that fees vary widely across the state. Some cities charge no fee and others charge a fee on the basis of the property's assessed value. In order to determine appropriate fees to administer the County's Historic Preservation program, staff needed to rely on several sources for guidance. First, Assembly Bill 654 (Hueso, 2011) requires that local jurisdictions assess all fees necessary and reasonable to administer their Mills Act program. In addition, since 2007, the County has moved away from charging a fixed price for discretionary applications. The County now requires a deposit and charges the applicant the actual cost of analyzing their proposal. This practice is considered far more equitable as projects are charged based upon staff effort. Furthermore, it allows the County to recover costs associated with the discretionary approval process. Based upon this information, staff recommends the following fee structure:

- Designating a Historic Property: \$250.00 Deposit/At Cost
- Establishing a Mills Act Contract: \$500.00 Deposit/At Cost
- Inspection of a Mills Act Property for Contract Compliance: \$250.00 Deposit/At Cost (Assessed every 5 years)

#### *Fiscal Impacts*

Per statute, the County Assessor determines the "restricted" value of the property to be placed under contract. This restricted value results in a potential revenue loss for the County. As part of its analysis of the Mills Act proposal, staff will seek input from the Assessor's Office on the projected revenue loss to be sustained by the County should the contract be executed.

*Status Reports*

Staff will provide an informational status report to the Board six, twelve and eighteen months after the County establishes its Mills Act program to keep the Board informed of issues which relate to the programs operation, and to summarize the County's activities to date.

**CONCLUSION:**

The items before the Board are intended as first steps in implementing the County's Historic Preservation Ordinance. The *Guide to Preparing Historical Resource Reports* will provide a consistent format for the submission of information pertaining to historic or potentially historic resources within the County. This information is necessary to determine if the property is eligible for placement on the County's Register and will also provide much needed data for project review required under the California Environmental Quality Act (CEQA). A Mills Act program would provide much needed funding to owners of historic properties to pursue maintenance, repair and rehabilitation or restoration. In addition, the program could act as a catalyst for further neighborhood reinvestment and build a sense of community pride.

Very truly yours,



Chris Bazar, Director  
Community Development Agency

**ATTACHMENTS:**

- A. Resolution
- B. Exhibit "A" - "Mills Act Program Guide"
- C. Exhibit "B" - "Guide to Preparing Historical Resource Reports"
- D. Exhibit "C"- Amendments to the Planning Department's Master Fee Schedule
- E. Mills Act Legislation
- F. Initial Study/Negative Declaration, Certified December 5, 2011

REEL            IMAGE

\_\_\_\_\_ Approved as to Form  
DONNA ZIEGLER, County Counsel  
By Brian Washington, Chief Assistant

**THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA,  
STATE OF CALIFORNIA**

On motion of Supervisor -  
Seconded by Supervisor -

and approved by the following vote:

Ayes:  
Noes:  
Excused or Absent:

**THE FOLLOWING RESOLUTION WAS ADOPTED TBD, 2012:  
NUMBER #**

**IMPLEMENTING THE HISTORIC PRESERVATION ORDINANCE**

**WHEREAS**, on January 10, 2012, this Board of Supervisors (“Board”) did amend the Alameda County Zoning Ordinance to include a new chapter (17.62) for Unincorporated Alameda County (hereinafter referred to as the “Alameda County Historic Preservation Ordinance”); and

**WHEREAS**, that amendment did take effect on February 10, 2012; and

**WHEREAS**, the Section 17.62.310 of the Alameda County General Ordinance Code establishes a Mills Act Program for the County pursuant to Sections 50280-90 of the California Government Code and Section 439.2 of the California Revenue and Taxation Code, to promote historic preservation; and

**WHEREAS**, it is necessary to collect data regarding a property’s history and ownership to determine whether or not it is a “historic resource” as defined in Chapter 17.62 (hereinafter referred to as the “Historic Preservation Ordinance”) of the Alameda County General Ordinance Code or Section 15064.5 (a) of the California Environmental Quality Act (CEQA) Guidelines.

**WHEREAS**, the Parks Recreation and Historical Commission considered the matter on March 1, 2012 and April 5, 2012; and

**WHEREAS**, the Alameda County Planning Commission did hold a public hearing on the implementation of the Historic Preservation Ordinance on the twenty-first day of May 2012 at the County of Alameda Administration Building, 224 West Winton Avenue, Hayward, California, for which notice was given as required by law, and at which time the Commission took public testimony; and

**WHEREAS**, the Alameda County Planning Commission did review the implementation of the Historic Preservation Ordinance in accordance with CEQA and did recommend to the Board that the County incorporate both the “Mills Act Program Guide” and “Guide to Preparing Historical Resource Reports” in its implementation of the Historic Preservation Ordinance; and

**WHEREAS**, this Board did hold a public hearing on the implementation of the Historic Preservation Ordinance at the hour of 1:00 PM on Tuesday the twenty-fourth day of July 2012, in the Board Chambers, County Administration Building, 1221 Oak Street, Oakland, for which notice was given as required by law and at which the Board took public testimony; and

**WHEREAS**, this Board did review the implementation of the Alameda County Historic Preservation Ordinance in accordance with CEQA; and

**WHEREAS**, it is the finding of this Board that the implementation of the Alameda County Historic Preservation Ordinance is in the public interest as the establishment of a Mills Act Program has the potential to be a catalyst for further revitalization and reinvestment throughout unincorporated Alameda County.

**NOW, THEREFORE,**

**BE IT RESOLVED**, this Board does hereby find, on the basis of the whole record before it (including the initial study and any comments received) that there is no substantial evidence in the record that the project will have a significant effect on the environment and that the Negative Declaration certified by the Board on December 5, 2011 addressed the potential impacts of the implementation of the Historic Preservation Ordinance; and

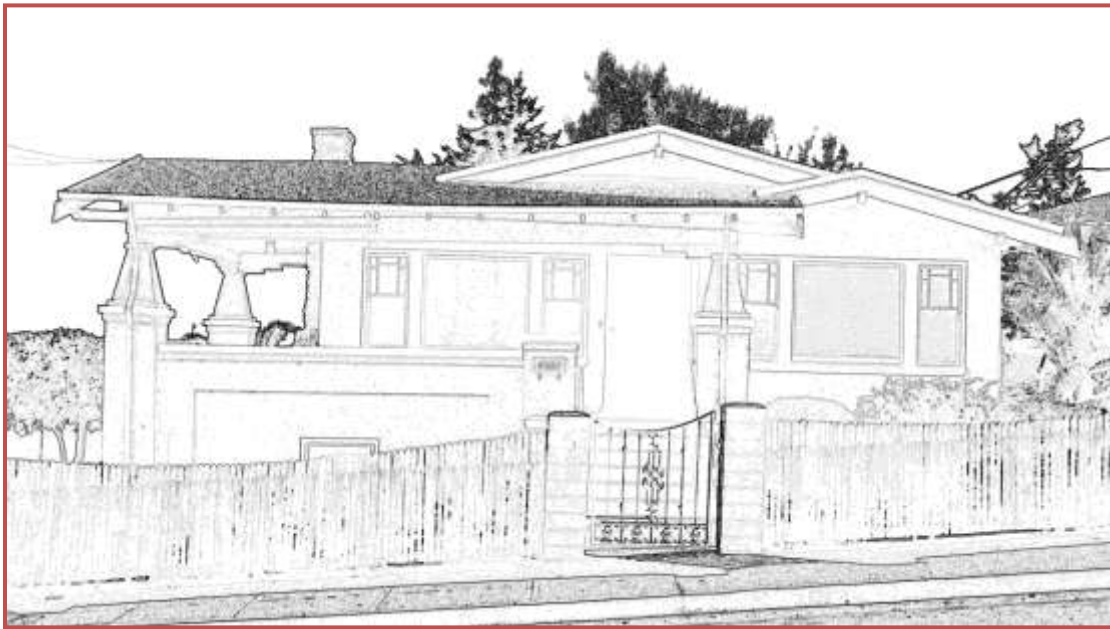
**BE IT FURTHER RESOLVED**, that this Board of Supervisors hereby finds that a Mills Act Program would provide an incentive for historic property maintenance, preservation and/or rehabilitation and thereby act as a catalyst for revitalization; and

**BE IT FURTHER RESOLVED**, that the Board shall receive periodic updates from the Community Development Agency on its activities relating to the Mills Act. This report shall analyze the effects of the Mills Act Program on property tax revenue, staff workload and neighborhood revitalization, and make recommendations as to the future for the Mills Act Program; and

**BE IT FURTHER RESOLVED**, that the Board authorizes staff to take any and all steps necessary to Implement the Historic Preservation Ordinance including the use of materials contained in Exhibits "A" ("Mills Act Program Guide") and "B" ("Guide to Preparing Historic Resources Reports"); and

**BE IT FURTHER RESOLVED**, that the Alameda County Planning Department's Master Fee Schedule is hereby amended in accordance with Exhibit C.

# ***MILLS ACT PROGRAM GUIDE***



Alameda County  
**COMMUNITY DEVELOPMENT AGENCY**  
**PLANNING DEPARTMENT**

Offices: 224 West Winton Avenue, Room 111, Hayward, CA 94544  
Permit Center: 399 Elmhurst Street, Room 141, Hayward CA 94544  
Ph: (510) 670-5400 Fax: (510) 785-8793  
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# ***Introduction***

The Mills Act (state sponsored legislation enacted in 1972) is a self-directed, economic incentive program for owners of historic buildings that are listed in the National Register of Historic Places or on a state, county, or city official register. The Mills Act it is the single most important economic incentive program available in California for private property owners of qualified historic buildings. It is also applicable to income producing properties. A Mills Act program must comply with two California State Codes: California Government Code, Article 12, Sections 50280-50290 and California Revenue and Taxation Code, Article 1.9, Sections 439-439.4.

Under the program, property owners receive a significant reduction in local property taxes in exchange for their promise to actively participate in restoring, rehabilitating, repairing and preserving their properties. Participants enter into a perpetual 10-year contract with the County.

Contracts are automatically renewed each year and may be transferred to new owners when the property is sold.

City, county, or state officials may periodically inspect properties to ensure proper maintenance.

Penalties may be imposed for breach of contract or failure to maintain the historic property.

The county assessor's office re-assesses property taxes based on a capitalization of income formula rather than on market value. Mills Act participants may realize a property tax savings of approximately 30 to 60% each year depending on property value, net operating income, and other variables.

# ***Mills Act Program Requirements***

## ***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 contract anniversary date, unless a jurisdiction or property owner files a notice of non-renewal 60 or 90 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 20 days after a jurisdiction 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.

## **County Requirements**

1. **Qualifying Structures.** To qualify for the program, a structure must be one of the following:

- a. A designated landmark;
- b. A contributing resource located within a designated historic district; or
- c. A non-contributing resource 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 "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 United States Secretary of the Interior's Standards for Rehabilitation; the State Office of Historic Preservation of the Department of Parks and Recreation; the State Historic Building Code; and the County of Alameda General Ordinance Code, and Historic Preservation Ordinance.
- 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.

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 Board of Supervisor approval of a Mills Act contract, the Parks, Recreation and Historical 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.

On a yearly basis, County 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 County or property owner files a notice of non-renewal 60 or 90 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 Board of Supervisors 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 County 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 County of Alameda General Ordinance Code, and Historic Preservation Ordinance.

# ***List of Potential Projects***

## **Projects may include but are not limited to:**

Access Modifications – Exterior  
Access Modifications – Interior  
Accessory Structure Repair or Replace  
Annual Maintenance & Repairs  
Appliance Vent  
Architectural – Remove Non-historic Feature & Restore to Original  
Architectural Trim – Repair  
Architectural Trim – Replace  
Architectural Trim – Install New  
Balcony/ Decks – New Railings  
Balcony/ Decks – Repair or Replace  
Basement – Access – Repair or Replace to Code  
Basement – New or Rebuild  
Cabinets – New Built-in Bathroom  
Cabinets – New Built-in Kitchen  
Cabinets – New Built-in Other  
Carpentry – Remove window & reframe shower including Siding/Caulking  
Chimney – Inspect and Clean  
Chimney – New  
Chimney – Rebuild or Repair  
Code Repair Item  
Column – Replace or Rebuild  
Corbels/ Structural Brackets Replace or Repair  
Door – Repair or Replace Screen Door  
Door – Hardware  
Door – New Basement Hatch Cover and Base  
Door – Repair  
Door – Replacement  
Drain for Deck – Install & or Repair  
Drainage Protection or Correction  
Dry-Rot Remove, Repair and or Replace  
Electrical – Rewire or Install New Outlets  
Electrical – Complete Rewire and Service Upgrade  
Electrical – Ground & Service Entry  
Electrical – Install New Circuits  
Electrical – Lighting Fixtures  
Electrical – New Service Lines to Garage  
Electrical – Security Lighting and Alarm  
Electrical – New Outlets  
Fence – Repair or New  
Flashing  
Floor Furnace – Remove or Restore floor  
Flooring – Carpet  
Flooring – Repair  
Flooring – Repair Wood Floors  
Flooring – Replacement  
Foundation – Bolting and Seismic Work  
Foundation – New  
Foundation – Repair  
Gable or Attic – Re-screening  
Garage Door  
Gutters & Downspouts  
House Relocation  
HVAC – Complete New System  
HVAC – Maintenance & Replacement/Plumbing Service & Painting  
Insulation – Walls – Blown-in  
Insulation – Attic  
Interior Trim – Refinish  
Kitchen – New Counters  
Masonry – New  
Masonry – Repair or Replace Tile Hearth  
Masonry – Repair or Repoint  
Masonry – Repoint Brick  
Mechanical – Air Conditioning  
Mechanical – Heating Unit  
Mechanical – Ventilation – New Kitchen/Bath Fan & Duct Work  
Mechanical – Venting & Duct  
Mechanical – Venting & Duct Work  
Minor Painting and Exterior Repairs  
Painting – Exterior  
Painting – Interior  
Painting – Removal of Lead Based Paint  
Painting – Exterior Trim  
Patio – Repair  
Plastering – Remove, Replace, or Refinish  
Plumbing – DWV, Drain, Waste & Vent  
Plumbing – Fixtures  
Plumbing – Install new supply lines  
Plumbing – Install Sump Pump & Discharge Drain  
Plumbing – Minor Repairs  
Plumbing – New Supply  
Plumbing – Service Lines

# ***Minimum Standards and Conditions for Maintenance, Use and Preservation***

## ***Secretary of the Interior's Standards for Rehabilitation***

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

## ***Maintenance (Section 17.62.330 Minimum Maintenance Requirements)***

A. The owner, lessee or other person legally in possession of a listed historic resource shall comply with all applicable codes, laws and regulations governing the maintenance of property. Every historic resource shall be maintained in good repair by the owner or such other person who has legal possession or control thereof, in order to preserve the historic resource against decay and deterioration to the greatest extent practicable. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of listed historic resources and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. Listed historic resources shall be preserved against such decay and deterioration and shall remain free from structural defects through prompt corrections of any of the following defects:

1. Façades that may fall and injure members of the public or damage property;
2. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;

3. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
4. Deteriorated, crumbling or loose exterior plaster.
5. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors;
6. Defective or insufficient weather protection for exterior wall covering, including lack of paint or other protective covering;
7. Any fault or defect in the building which renders it structurally unsafe or not properly watertight.

B. If the Commission has reason to believe that a historic resource is being neglected and subject to damage from weather or vandalism, the Commission shall direct the Planning Department to meet with the owner or other person having legal custody and control of the resource and to discuss with them the ways to improve the condition of the property. If no attempt or insufficient effort is made to correct any noted conditions thereafter, the Commission may, at a noticed public hearing, make a formal request that the Planning Department or other appropriate department or agency take action to require corrections of defects in the subject resource in order that such resource may be preserved in accordance with this article.

# ***Mills Act Program Property Inspection Information***

## **Initial Inspection:**

If you are selected to participate in the Mills Act, County staff will complete an initial inspection of your property to document the current condition of the property. Photographs will be attached to the Historic Property Preservation Agreement (Mills Act Contract) as Exhibit B. The inspection will be scheduled at a time that is convenient for you and will include a walk-through of the residence and any accessory buildings as well as a general inspection of the property.

## **Periodic Inspection:**

County staff may inspect your property periodically following submittal of your Annual Report to ensure that work has been completed in accordance with the Ten-Year Rehabilitation Plan and all County requirements. Exterior work that is easily visible from the street may be inspected without an appointment. Interior work will require an inspection appointment. Photographs will be taken as part of the inspection for inclusion in your file.

# ***Application Review Process***

## **1. Application Submittal**

Planning Department staff receives the Mills Act program application and application processing fee.

## **2. Review for Completeness**

County staff reviews all submitted application information for accuracy and completeness and may schedule a meeting with the applicant to discuss details of the proposed Restoration, Rehabilitation & Preservation Plan. When appropriate, staff deems the Mills Act program application complete.

## **3. County Tax Assessor Review**

The County Assessor's Office will perform a calculation of the tax benefits to be received under the Mills Act program.

## **4. Site Visit**

County staff arranges with applicant a time to visit the historic property site to review conditions.

## **5. Parks, Recreation and Historical Commission**

Planning staff schedules the application for a Parks, Recreation and Historical Commission public meeting and prepares a report regarding a Certificate of Appropriateness for the proposed project.

## **6. Board of Supervisors**

If the Parks, Recreation and Historical Commission approves a Certificate of Appropriateness, Planning staff schedules the application for Board of Supervisors consideration as a part of its consent calendar action. Staff prepares a report, including a draft Mills Act contract, with conditions as recommended by the Parks, Recreation and Historical Commission.

## **7. Contract Execution and Recordation**

If approved by the Board of Supervisors, the County executes the contract and, within 20 days of approval, records it with the Alameda County Recorder's Office.

## **8. State Office of Historic Preservation Review**

Within six months of Mills Act contract recordation with the Alameda County Recorder's Office, property owners are required to provide written notice to the State Office of Historic Preservation of the California Department of Parks and Recreation. The notification must state that the property owner has entered into a Mills Act contract with the County of Alameda. A copy of the notice must also be mailed to the Alameda County Planning Director.

## ***Appendices***

1. Sample Contract
2. Mills Act Application
3. Restoration, Rehabilitation and Preservation Plan
4. Annual Report
5. Notice of Non-renewal



RECORDING REQUESTED BY:

Clerk, Board of Supervisors  
1221 Oak Street, Room 536  
Oakland CA 94612

AND WHEN RECORDED MAIL TO:

Clerk, Board of Supervisors  
1221 Oak Street Room 536  
Oakland, CA 94612

**HISTORIC PROPERTY PRESERVATION AGREEMENT (MILLS ACT CONTRACT)**

THIS CONTRACT, made and entered into this \_\_\_ day of \_\_\_, 20\_\_\_, by and between NAME, hereinafter referred to as "Owner" and the COUNTY OF ALAMEDA, a political subdivision of the State of California, hereinafter referred to as "County":

**W I T N E S S E T H:**

**WHEREAS**, Owner(s) possesses certain real property located within County and described in Exhibit "A" attached hereto and made a part hereof;

**WHEREAS**, California Government Code Section 50280, et seq. authorizes cities to enter into contracts with the owners of qualified historical property, as defined in Government Code Section 50280.1, to provide for the use, maintenance and restoration of such historical property so to retain its characteristics as property of historical significance;

**WHEREAS**, The Property is a listed historic resource as defined in Section 17.62.030 of the Alameda County Ordinance Code, and is a privately owned property which is not exempt from property taxation;

**WHEREAS**, The County and Owner desire to carry out the purposes of Sections 50280-50290 of the California Government Code and Sections 439-439.4 of the California Revenue and Taxation Code; and

**WHEREAS**, Both Owner and County desire to enter into a Agreement to preserve the Property so as to retain its characteristics of cultural, historical and architectural significance and to qualify the Property of an assessment of valuation pursuant to Section 1161 of the Revenue and Taxation code of the State of California.

**NOW, THEREFORE**, both Owner and County in consideration of the mutual promises, covenants and conditions herein contained and the substantial public benefits to be derived therefrom, do hereby agree as follows:

1. **CONTRACT SUBJECT TO THE MILLS ACT OF 1972.**

This contract is made and entered into pursuant to the Mills Act of 1972 (Article 12, Government Code of California commencing with Section 50280) and is subject to all of the provisions thereof.

2. **TERM OF CONTRACT.**

This contract shall be effective as of the day and year first above written and shall remain in effect for a period of ten years therefrom; provided, however, each first day of January shall be the “annual renewal date” of the contract. This contract shall automatically be renewed on the first day of January next succeeding the date of the commencement hereof and on the first day of January of each year thereafter for an additional one-year period unless notice of nonrenewal is given as provided in paragraph 3. This contract shall be subject to an unlimited number of one-year extensions and each such one-year extension shall be added to the term thereof so as to commence immediately following the termination date or the termination date of the most recently added one-year extension, whichever is later in time.

3. **NONRENEWAL.**

(a) If either party desires in any year not to renew this contract, that party shall serve written notice of nonrenewal upon the other party in advance of the annual renewal date of this contract. Unless such written notice of nonrenewal is served by Owner at least 90 days prior to the renewal date, or by County at least 60 days prior to the renewal date, this contract shall be considered renewed as provided in paragraph 2 above.

(b) If either party serves written notice of nonrenewal in any year within the time limits of (a) above, this contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of this contract, as the case may be.

4. **NOTICE.**

Any notice required to be given by the terms of this Agreement shall be provided by U.S. mail or hand delivery at the address of the respective parties as specified below or at any other address as may be later specified in writing by the parties hereto.

**To County:** County of Alameda  
Community Development Agency  
224 West Winton Avenue, Room 111  
Hayward, CA 94544  
ATTN: Secretary, Parks Recreation and Historical Commission

**To Owner:**

5. **NO COMPENSATION.**

Owner shall not receive any payment from County in consideration of the obligations imposed under this contract, it being recognized and agreed that the consideration for the execution of this contract is the substantial public benefit to be derived therefrom, and the advantage that will accrue to Owner as a result of the effect upon the assessed value of the property on account of the restrictions on the use of the property contained herein.

6. **SUCCESSORS IN INTEREST.**

This contract and the restrictions imposed hereunder shall run with the property described in Exhibit “A” and shall be binding upon the heirs, executors, administrators, trustees, successors and assigns of Owner. This contract shall also be transferred from County to any succeeding County or county acquiring jurisdiction over the

property described in Exhibit "A". On the completion of annexation proceedings by a County, that County shall succeed to all rights, duties and powers of the County under this contract for that portion of the property described in Exhibit "A" annexed to the County, unless the County has filed, and had approved, a protest to the contract at the time of its execution as provided for in Section 50281 (b) (3) of the California Government Code.

**7. CONDEMNATION.**

In the event that property described in Exhibit "A" is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the Board of Supervisors to frustrate the purpose of the contract, such contract shall be canceled and no fee shall be imposed. Such contract shall be deemed null and void for all purposes of determining the value of the property so acquired.

**8. VALUATION OF HISTORICAL PROPERTY.**

During the term of this Agreement, Owner(s) are entitled to seek assessment of valuation of the Historical Property pursuant to the provisions of Section 439 et. seq. of the California Revenue and Taxation Code.

**9. PRESERVATION/REHABILITATION AND MAINTENANCE.**

During the term of this Agreement, the Property shall be subject to the following conditions, requirements and restrictions:

(a) Owner(s) agree to preserve/rehabilitate and maintain cultural, historical and architectural characteristics of the Property during the term of this Agreement as set forth in the attached schedule of improvements, which has been reviewed by the Parks Recreation and Historical Commission and approved by the Board of Supervisors (Exhibit B attached and made a part hereof). No demolition or other work may occur which would adversely impact the cultural, historical and architectural characteristics of the Property during the term of this Agreement.

(b) Owner shall preserve and maintain the Historic Property in accordance with the minimum standards and conditions for maintenance, use and preservation attached hereto as Exhibit "C", and incorporated herein by this reference.

(c) In any restoration or rehabilitation of the property required by subsections (a) and (b) of this paragraph 9, the Owner shall restore and rehabilitate the property according to the rules and regulations of the Office of Historic Preservation of the State Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation of Historic Properties, the State Historical Building Code, and the County of Alameda to the extent applicable.

(d) Owner shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County, State Department of Parks and Recreation, and State Board of Equalization as may be necessary to determine owner's compliance with the terms and provisions of this Agreement.

(e) Before undertaking the property maintenance required by subsection (a) of this paragraph 9 and the home improvements required by subsection (b) of this paragraph 9, Owner shall obtain all necessary building and planning permits to the extent required by local law, including but not limited to, a Certificate of Appropriateness as specified in Section 17.62.160 et seq.

10. **CANCELLATION.**

The County, following a duly noticed public hearing before the Board of Supervisors, as set forth in California Government Code Section 50285, may cancel this Agreement if it determines that Owner(s):

- (a) have breached any of the conditions of the Agreement;
- (b) have allowed the property to deteriorate to the point that it no longer meets the standards for being on the Alameda County Register of Historic Resources ; or
- (c) if the Owner(s) have failed to restore or rehabilitate the Property in the manner specified in paragraph 9 of this Agreement.

In the event of cancellation, Owner(s) shall be subject to payment of those cancellation fees set forth in California Government Code Sections 50280 et seq., described herein. Upon cancellation, Owner(s) shall pay a cancellation fee of twelve and one-half percent (12 ½%) of the current fair market value of the Property at the time of cancellation, as determined by the County Assessor as though the Property were free of any restrictions pursuant to this Agreement.

11. **ENFORCEMENT OF AGREEMENT.**

As an alternative to cancellation of the Agreement for breach of any condition as provided in paragraph 10, the County may, in its sole discretion, bring an action in court to enforce this Contract, including, but not limited to, an action to enforce this Contract by specific performance or by injunction. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in Alameda County Ordinance Code Chapter 17.62 are available to the County to pursue in the event that there is a breach of this Agreement.

In the event of a default, under the provisions of this Agreement by the Owners, County shall give written notice to Owners by registered or certified mail. If such a violation is not corrected to the reasonable satisfaction of County within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days provided that acts to cure the breach or default may be commenced within (30) days and must thereafter be diligently pursued to completion by Owners, then County may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owners growing out of the terms of this Agreement, apply to any violation by Owners or apply for such other relief as may be appropriate.

12. **INDEMNIFICATION.**

Owner shall indemnify, defend (with counsel reasonably acceptable to County) and hold harmless the County of Alameda, and all of its boards, commissions, departments, agencies, agents, officers, and employees (individually and collectively, the "County") from and against any and all actions, causes of actions, liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses (collectively called "Claims") incurred in connection with or arising in whole or in part from this Agreement, including without limitation: i. any accident, injury to or death of a person, loss of or damage to property occurring in or about the Property; ii. the use or occupancy of the Property by Owner, its Agents or Invitees; iii. the condition of the Property; or iv. any construction or other work undertaken by Owner on the Property.

This indemnification shall include, without limitation, reasonable fees for attorneys, consultants and experts and related costs and County's cost of investigating any Claims. Owner shall defend the County from any and all Claims even if such Claim is groundless, fraudulent or false. Owner's obligations under this Paragraph shall survive termination of this Agreement.

13. **GOVERNING LAW.**

This Agreement shall be construed and enforced in accordance with the State of California.

14. **AMENDMENTS.**

This Agreement may be amended in whole or in part only by a written recorded instrument executed by the parties hereto in the same manner as this Agreement.

15. **NO WAIVER.**

No failure by the County to insist on the strict performance of any obligation of Owner under this Agreement or to exercise any right, power or remedy arising out of a breach hereof, shall constitute a waiver of such breach or of County's right to demand strict compliance with any terms of this Agreement. No acts or admissions by County, or any agent(s) of County, shall waive any or all of County's right under this agreement.

16. **SEVERABILITY.**

If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

17. **RECORDING**

No later than 20 days after execution of this Agreement, the County shall record a copy of the Agreement and provide proof of such to the Owner.

18. **NOTICE TO STATE OFFICE OF HISTORIC PRESERVATION**

The Owner shall provide written notice of the Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement, and provide County with a copy of such notice.

19. **GENERAL PROVISIONS**

None of the terms provisions or conditions of this Agreement shall be deemed to create a partnership hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.

20. **ATTORNEY'S FEES**

In the event legal proceedings are brought by any party or parties hereto, 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 its reasonable attorney's fees in addition to court costs and other relief ordered by the court.

ATTEST: CRYSTAL HISHIDA GRAF

Clerk of the Board of Supervisors

\_\_\_\_\_

APPROVED AS TO FORM  
DONNA ZIEGLER, County Counsel

BY \_\_\_\_\_  
Deputy

I hereby certify under penalty of perjury that the President of the Board of Supervisors was duly authorized to execute this document on behalf of the County of Alameda by a majority vote of the Board \_\_\_\_\_; and that a copy has been delivered to the President as provided by Government Owner Code Section 25103.

Attest: \_\_\_\_\_  
CRYSTAL K. HISHIDA, Clerk, Board of Supervisors, County of Alameda, State of California

BY: \_\_\_\_\_

COUNTY OF ALAMEDA

\_\_\_\_\_  
President, Board of Supervisors

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Owner Sign Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Owner Sign Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Owner Sign Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Owner Sign Name

## **EXHIBITS**

- A. Legal description of the property including a copy of the Assessor's parcel map.
- B. Restoration, Rehabilitation and Preservation Plan (includes cost estimates, supporting documents, photographs showing the current condition of the property and areas of concern)
- C. Minimum Standards and Conditions for Maintenance, Use and Preservation



Alameda County  
**COMMUNITY DEVELOPMENT AGENCY**  
**PLANNING DEPARTMENT**

Offices: 224 West Winton Avenue, Room 111, Hayward, CA 94544  
 Permit Center: 399 Elmhurst Street, Room 141, Hayward CA 94544  
 Ph: (510) 670-5400 Fax: (510) 785-8793  
 www.acgov.org/cda/planning

<b>Application Received</b>	
By: _____	Date: _____
Application # _____	

# MILLS ACT CONTRACT APPLICATION

(Applications are accepted between January 1 and March 31<sup>st</sup> of each year)

Property Owner(s)		
List all property owners and current mailing addresses. Names should appear in the same form that they are shown on deeds and other title documents. If the owner is other than an individual or individuals, identify those persons authorized to enter into a binding agreement for the property, and, as an attachment to the application, include a copy of the document establishing that authority. (Use additional pages if necessary to list all owners.)		

Property Owner/Agent		
Street Address		
City	State	Zip
Email	Daytime Phone	

Property Owner/Agent		
Street Address		
City	State	Zip
Email	Daytime Phone	

Property Owner/Agent		
Street Address		
City	State	Zip
Email	Daytime Phone	

Property Description	
Property Address/Location	
Current Land Use	Original Land Use
General Plan Designation	Date of Construction
Present Zoning	Assessor's Parcel No
Date Listed on the Alameda County Register*	Register Number

Property Tax Information		
Current Property Taxes	Annual Gross Income	Annual Net Income
Annual Expenses (Insurance, Utilities, Repairs)		

\*-Properties Must be listed by December 31 of the prior year

**The following items are required for a complete application; incomplete applications will not be accepted**

- Attach a check made payable to the County of Alameda for \$500.00
- Attach a description of the historical characteristics of the property. Excerpts from the documents supporting listing of the property on the Alameda County Register of Historical Resources may be used for this purpose. Include current 4"x6" color photos of all elevations and character defining features of the structure and any outbuildings.
- Attach a description of any alterations/additions/modifications that have been completed on the structure(s).
- Attach a preliminary title report, including a legal description of the property.
- Attach a copy of the Assessor's parcel map of the property
- Attach paperwork that establishes authority of signer(s) if property is held in a Trust, Corporation or Partnership.
- Attach a Restoration, Rehabilitation and Preservation Plan
- Attach photographs showing the areas that will be addressed over the ten year period.

Signature(s) and Certifications	
To the Board of Supervisors of the County of Alameda, California:	
I (we) hereby request the Board to consider and take the necessary action to establish a Mills Act Contract for our property pursuant to California Government Code Section 50280, et seq., and Section 17.62.310 of the Alameda County Ordinance Code.	
It is my (our) intent to enter negotiations for said contract.	
_____	_____
Property Owner/Agent	Date
_____	_____
Property Owner/Agent	Date
_____	_____
Property Owner/Agent	Date

**ADDITIONAL INFORMATION:**

For information about assessments, taxes and/or parcel numbers, call or visit:

*Alameda County Assessor*  
Administration Building  
1221 Oak Street, Room 145  
Oakland, CA 94612  
Telephone: (510) 272-3787

For information about the County's Historic Preservation Program please visit  
[http://www.acgov.org/cda/planning/generalplans/historic\\_preservation.htm](http://www.acgov.org/cda/planning/generalplans/historic_preservation.htm)



Alameda County  
**COMMUNITY DEVELOPMENT AGENCY  
 PLANNING DEPARTMENT**

Offices: 224 West Winton Avenue, Room 111, Hayward, CA 94544  
 Permit Center: 399 Elmhurst Street, Room 141, Hayward CA 94544  
 Ph: (510) 670-5400 Fax: (510) 785-8793  
 www.acgov.org/cda/planning

# MILLS ACT - RESTORATION, REHABILITATION AND PRESERVATION PLAN

**General Information**

Please provide explanation of the manner in which the proposed contract will promote preservation of the historic property over the next ten years. Applications will not be processed if it cannot be demonstrated that the tax savings will be invested in the historic property. A Restoration, Rehabilitation and Preservation Plan is required for the processing of the Mills Act program application. At a minimum, the Restoration, Rehabilitation and Preservation Plan must include the following:

1. A tentative schedule of restoration and maintenance activities to be undertaken consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (or those that have been completed for historical designation) that ensures the continued historical characteristics of the structure remain in good repair.
2. For all work to be completed during the first ten years of the contract, cost estimates must be provided. (Cost estimates are subject to verification by County staff.)
3. Plans, drawings, material samples, brochures, etc. as needed to depict the location and characteristics of all proposed work.
4. Additional information may be required during the review process for clarification.

Please fill in the table below by indicating the year in which the work will be done, the type of work proposed, a detailed description of the work, and the estimated cost of the work. You may attach additional sheets as needed.

**PROPERTY ADDRESS:** \_\_\_\_\_

ITEM #	YEAR	DESCRIPTION OF WORK	ESTIMATED COST
1			
2			
3			
4			
5			
6			
7			

ITEM #	YEAR	DESCRIPTION OF WORK	ESTIMATED COST
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			



Alameda County  
**COMMUNITY DEVELOPMENT AGENCY**  
**PLANNING DEPARTMENT**  
 Offices: 224 West Winton Avenue, Room 111, Hayward, CA 94544  
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 Ph: (510) 670-5400 Fax: (510) 785-8793  
 www.acgov.org/cda/planning

Report Received	
By: _____	Date: _____
Contract # _____	

**20\_\_ ANNUAL REPORT**  
**MILLS ACT CONTRACT**  
*(Due Month \_\_, 20\_\_)*

**Contact Information**

Please provide the contact information of the person filing out this form.

Name \_\_\_\_\_

Street Address \_\_\_\_\_

City _____	State _____	Zip _____
Email _____	Daytime Phone _____	

**Property Details**

Property Address/Location \_\_\_\_\_

Assessor's Parcel No \_\_\_\_\_

Current Year Property Taxes (Please attach a copy of your property tax statement) \$ \_\_\_\_\_

What was (were) your project(s)? Please describe each project contributing to your required expenditure, include the cost of each project (add additional sheets as necessary):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

What was the total cost of the project(s) (Please attach documentation)?

\_\_\_\_\_

Based on the results of this project would you like to revise your Ten-Year Plan?  
 Yes\_\_\_ No\_\_\_

If yes, how? (attach additional sheets if necessary)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Comments / Suggestions (attach additional sheets if necessary):

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**REQUIRED ATTACHMENTS:**

- Copies of receipts for all required expenditures and building permits;
- Photographs for all work performed on the property during the last year, whether included in the required expenditures or not;
- Photographs of the site and exterior of property;
- Copies of the applicable property tax statements

**Signature(s)**

\_\_\_\_\_  
Property Owner/Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner/Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner/Agent

\_\_\_\_\_  
Date

**ADDITIONAL INFORMATION:**

For information about assessments, taxes and/or parcel numbers, call or visit:

Alameda County Assessor, Administration Building, 1221 Oak Street, Room 145, Oakland, CA 94612

Telephone: (510) 272-3787



**NOTICE OF NON-RENEWAL OF MILLS ACT CONTRACT**  
(Government Code § 50282(a))

If it is your intention **NOT** to renew your Mills Act Contract you must complete this document and the attached "Notice of Non-renewal of Land Conservation Contract" and return to the **Clerk, Board of Supervisors, 1221 Oak Street, Room 536, Oakland, CA 94612, no later than October 2, of this year.** If your documents are complete and filed timely, your non-renewal will become effective the following January 1. Please file **one original and one copy** of each of these two (2) forms.

Contact Information		
Please provide the contact information of the person filing out this form.		
Name		
Street Address		
City	State	Zip
Email	Daytime Phone	

Property Details
Property Address/Location
Assessor's Parcel No

Your "Notice of Non-renewal" will be recorded and requires the **notarized signature(s) of all current owners.** If these forms are received **after October 2nd**, or are incomplete as of October 2nd, the non-renewal will be effective beginning the second January 1st after the date received.

**Note:** These forms will **NOT** be considered to be filed with the Clerk of the Board of Supervisors until **ALL** information requested has been supplied and is deemed complete. Most of the information is available from contracts, title reports and deeds. You may also contact the Assessor's Office to verify Assessor Parcel Number(s), etc. or for past-recorded information.

**Return completed forms to: Clerk, Board of Supervisors Office, 1221 Oak Street, Suite 536, Oakland, CA 94612**

**FOR CLERK'S USE ONLY**

*Receipt of this notification is hereby acknowledged:*

By: \_\_\_\_\_ Date: \_\_\_\_\_

RECORDING REQUESTED BY  
**Alameda County Clerk of the Board**  
1221 Oak Street Room 536  
Oakland CA 94612

AND WHEN RECORDED, MAIL TO:  
**Alameda County Clerk of the Board**  
1221 Oak Street Room 536  
Oakland CA 94612

*Re: Government Code Section 27383*

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**NOTICE OF NONRENEWAL**

NOTICE is hereby given to the County of Alameda or the following named landowner(s) that the Land Conservation Contract described below will not be renewed as of January 1, \_\_\_\_\_.

MILLS ACT CONTRACT NO. \_\_\_\_\_

ASSESSOR'S PARCEL NO. \_\_\_\_\_

OWNER(S): (Original owner(s) and ALL current owners must be listed - **type/print clearly**)

a. Original Owner(s) \_\_\_\_\_

b. Current Owner(s) \_\_\_\_\_

SIGNATURES: The **notarized signature** and mailing address of each of the above current owners must be included. Use additional pages if necessary

Date: \_\_\_\_\_ / \_\_\_\_\_  
Signature Print Name

Date: \_\_\_\_\_ / \_\_\_\_\_  
Signature Print Name

Date: \_\_\_\_\_ / \_\_\_\_\_  
Signature Print Name

Date: \_\_\_\_\_ / \_\_\_\_\_  
Signature Print Name

**This document must be notarized by a Notary Public**

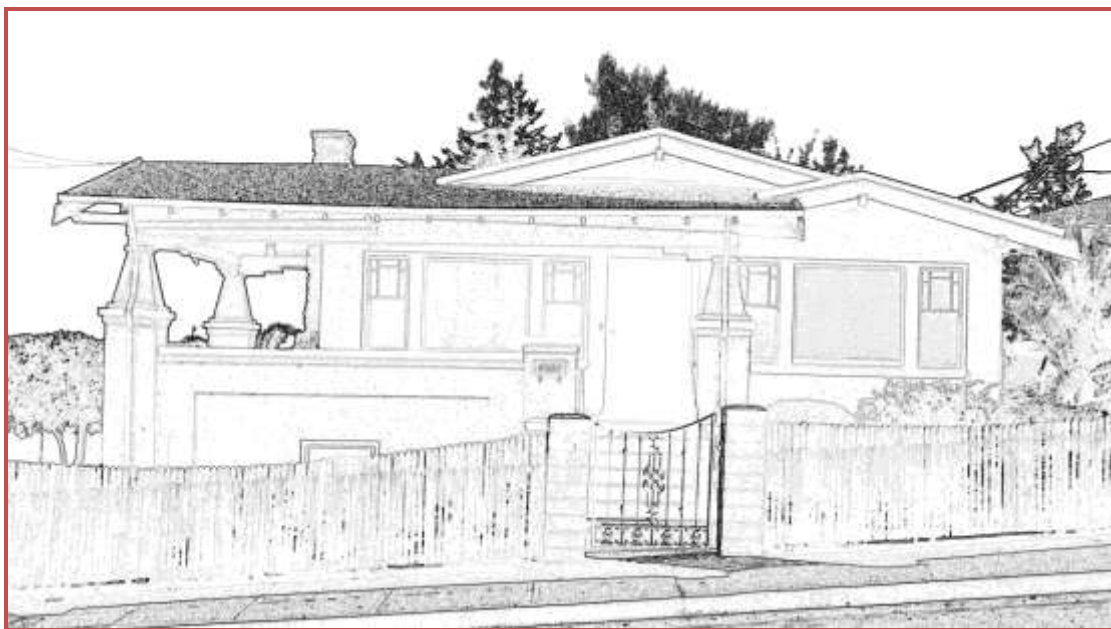
\_\_\_\_\_  
President, Alameda County Board of Supervisors

\_\_\_\_\_  
**ATTEST:** Alameda County Clerk of the Board

\_\_\_\_\_  
Print Name of President

\_\_\_\_\_  
Print Name of Clerk

# ***GUIDE TO PREPARING HISTORICAL RESOURCE REPORTS***



Alameda County

***COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT***

Offices: 224 West Winton Avenue, Room 111, Hayward, CA 94544

Permit Center: 399 Elmhurst Street, Room 141, Hayward CA 94544

Ph: (510) 670-5400 Fax: (510) 785-8793

[www.acgov.org/cda/planning](http://www.acgov.org/cda/planning)

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# ***Preparing a Historical Resource Report***

The purpose of this document is to provide clear direction and a standardized format for all historical resource reports prepared in conjunction with a nomination to the Alameda County Register of Historic Resources (“Register”) or other historical analysis as required by Alameda County. A clear understanding of required information, documentation, and formatting will reduce the number of reports sent back for supplemental information and will allow both County staff and members of the Alameda County Parks, Recreation and Historical Commission (PRHC) to more efficiently and effectively review resources being considered for historic designation.

It should be noted that if staff determines during review of the report that required documentation, information, and analysis has not been provided or addressed as outlined in this document, the report may be sent back and the applicant will be required to resubmit the report.

Please note that property owners who wish to participate in the Mills Act program will be required to submit a separate application following the designation of the property.

## ***Department of Parks and Recreation (DPR) 523 forms***

All information and discussion of historical significance must be fully contained within Department of Parks and Recreation (DPR) 523 forms. These forms are available on-line by visiting the California State Office of Historic Preservation (OHP) website at [http://ohp.parks.ca.gov/?page\\_id=1069](http://ohp.parks.ca.gov/?page_id=1069). Historical reports that do not provide DPR forms, or provide them as attachments, will not be accepted.

Complete all DPR forms that are appropriate for the resource type. These include, but are not limited to:

- 523-A Primary Record (for all resource types)
- 523-B Building Structure and Object Record (for all buildings, structures, and objects)
- 523-C Archaeological Site Record Form (for archaeological sites only)
- 523-D District Record Form (for proposed districts only)
- 523-L Continuation Sheet (for information which cannot be contained within forms A-D)

The information and analysis contained within the DPR forms must conform to OHP Guidelines cited above. The OHP has prepared a manual to assist individuals in the preparation of the DPR 523 Forms. That document may be accessed at the OHP website here <http://ohp.parks.ca.gov/pages/1054/files/manual95.pdf>

## ***Attachments***

All supporting documentation must be provided within standardized attachments, and shall not be within the body of the report. In addition, all supporting documentation listed below must be provided, and the attachment pages included in this document must be used at the beginning of each attachment (A-E). If the documentation cannot be found, a sheet must be inserted in

its place stating that the information was not available. Supporting documentation shall be provided as follows:

**Attachment A: Building Development Information**

1. Building Permits (electrical, mechanical & plumbing permits not required)
2. Water/Sewer Connection Records
3. Site Plan (please identify any additions)
4. County Lot and Block Book Page (for the first year the parcel was assessed with an improvement)
5. Previous Historical Resource Survey Information

**Attachment B: Ownership and Occupant Information**

1. Chain of Title (in tabular format)
2. Telephone directory listing of occupants and their occupations if identified in the directory (in tabular format)
3. Copy of the deed indicating the date of construction

**Attachment C: Maps**

1. USGS Map (with north arrow and site location identified)
2. Historical USGS Maps
3. Original Subdivision Map with site location (not the Assessor's Parcel Map)
4. Sanborn Fire Maps

**Attachment D: Photographs**

1. Historical
2. Current 4"x6" (minimum) Color Photographs:
  - a. North Elevation (wide shot and details)
  - b. East Elevation (wide shot and details)
  - c. South Elevation (wide shot and details)
  - d. West Elevation (wide shot and details)

**Attachment E: Analysis of Eligibility for the Alameda County Register**

Please provide any primary or secondary documentation to demonstrate the structure(s), site, or district is eligible for placement or deletion from the Alameda County Register. Placement criteria are specified in Section 17.62.060 of the Alameda County Ordinance Code. Such documentation may include obituaries, biographies, newspaper articles, advertisements, subdivision maps, photographs, scholarly journal articles, etc. Please provide an analysis of how the evidence supports the assertion that the structure(s) or site is eligible or ineligible for placement on the Register. Please list which if any, local, state, or national registers that the property is listed upon.

# ***Technical Assistance***

In order to assist the applicant in preparing a complete Historical Research Report for consideration by the Alameda County Parks, Recreation and Historical Commission (PRHC), County staff has compiled the following list of documents and resources designed to guide the applicant through the analysis of a resource and the preparation of a historical resource research report.

The following resources are available to provide assistance preparing a historical resource research report:

For assistance in completing a DPR 523 form please review “Instructions for Recording Historical Resources”, by going to <http://ohp.parks.ca.gov/pages/1054/files/manual95.pdf> . Assistance with completing a DPR form consistent with the County’s requirements can also be found at the end of this document.

For assistance with evaluating the architecture and character defining features of a building, please review *National Park Service Brief 17: “Architectural Character Identifying the Visual Aspects of Historic Buildings as an Aid to Preserving Their Character”* by going to <http://www.cr.nps.gov/hps/tps/briefs/brief17.htm>

For assistance with evaluating a building’s interior elements or spaces, please review *National Park Service Bulletin 18: “Rehabilitating Interiors in Historic Buildings, Identifying and Preserving Character-Defining Elements”* by going to <http://www.cr.nps.gov/hps/tps/briefs/brief18.htm>

For assistance with assessing the integrity of a resource, please review *National Register Bulletin 15: “How to Evaluate the Integrity of a Property”* by going to [http://www.cr.nps.gov/nr/publications/bulletins/nrb15/nrb15\\_8.htm](http://www.cr.nps.gov/nr/publications/bulletins/nrb15/nrb15_8.htm)

For assistance evaluating a property within a historical context, please review *National Register Bulletin 15: “How to Evaluate a Property within its Historic Context”* by going to [http://www.cr.nps.gov/nr/publications/bulletins/nrb15/nrb15\\_5.htm](http://www.cr.nps.gov/nr/publications/bulletins/nrb15/nrb15_5.htm)

For information regarding the County’s Historic Preservation Ordinance, please refer to the following web page [http://www.acgov.org/cda/planning/generalplans/historic\\_preservation.htm](http://www.acgov.org/cda/planning/generalplans/historic_preservation.htm).

# Research Resources

In order to assist the applicant in preparing a complete historical resource report for consideration by the Alameda County Parks, Recreation and Historical Commission, County staff has compiled the following list of agencies, archives, and repositories where required documentation can be found. This list is not comprehensive, but provides a starting point for research.

Entity	Information Available
<b>Alameda County Assessor</b> 1221 Oak Street, Room 145 Oakland, CA 94612 (510) 272-3787 Fax: (510) 272-3803	County Lot and Block Books
<b>Alameda County Planning Department</b> Offices: 224 West Winton Avenue, Room 111, Hayward, CA 94544 Permit Center: 399 Elmhurst Street, Room 141, Hayward CA 94544 (510) 670-5400 Fax: (510) 785-8793	Historic Resource Surveys
<b>Alameda County Public Works Agency-            Building Inspections Division</b> 399 Elmhurst Street, Room 141 Hayward CA 94544 (510) 670-5440	Building permits, engineering maps, and subdivision records
<b>Alameda County Clerk-Recorder's Office</b> 1106 Madison Street Oakland, CA 94607 (510) 272-6362	Deed Information, marriage certificates, birth certificates, and death certificates
<b>Alameda County Historical Society</b> P.O. Box 13145 Oakland, CA 94661 (510) 238-3234	Historical photographs, biographical information, and historical maps
<b>California Genealogical Society</b> 2201 Broadway, Suite LL2 Oakland, CA 94612-3031 (510) 663-1358 Fax: (510) 663-1596	Historical photographs, biographical information, and historical maps
<b>Alameda County Library</b> 2400 Stevenson Blvd. Fremont, CA 94538 (510) 745-1500	Historical photographs, biographical information, historical maps, and historical telephone directories
<b>Oakland Public Library</b> 125-14th St. Oakland, CA 94612 (510) 238-3222	Historical photographs, biographical information, historical maps, and historical telephone directories

<b>California Historical Society</b> 678 Mission St. San Francisco, CA 94105 (415) 357-1848, ext. 215 Fax: (415) 357.1850	Historical photographs, biographical information, and historical maps
<b>Hayward Area Historical Society</b> 22701 Main St. Hayward, CA 94541 (510) 581-0223 Fax: (510) 581-0217	Historical photographs, biographical information, and historical maps
<b>San Leandro Library</b> 300 Estudillo Ave. San Leandro, CA 94577 (510) 577-3979	Historical photographs, biographical information, and historical maps
<b>Bancroft Library</b> Berkeley, CA 94720-6000 (510) 642-6481 Fax: (510) 642-7589	Historical photographs, biographical information, and historical maps
<b>Livermore Heritage Guild</b> P.O. Box 961 Livermore, CA 94550 (925) 449-9927	Historical photographs, biographical information, and historical maps
<b>Alameda County Library</b> 2400 Stevenson Blvd. Fremont, CA 94538 (510) 745-1500	Historical photographs, biographical information, historical maps, and historical telephone directories
<b>Amador-Livermore Valley Historical Society</b> 603 Main St. Pleasanton, CA 94566 (925) 462-2766	Historical photographs, biographical information, and historical maps

## ***Forms and Attachments***



Alameda County  
**COMMUNITY DEVELOPMENT AGENCY**  
**PLANNING DEPARTMENT**

Offices: 224 West Winton Avenue, Room 111, Hayward, CA 94544  
 Permit Center: 399 Elmhurst Street, Room 141, Hayward CA 94544  
 Ph: (510) 670-5400 Fax: (510) 785-8793  
 www.acgov.org/cda/planning

<b>Application Received</b>	
By: _____	Date: _____
Application # _____	

# ALAMEDA COUNTY REGISTER OF HISTORIC RESOURCES APPLICATION

Property Owner(s)
List all property owners and current mailing addresses. Names should appear in the same form that they are shown on deeds and other title documents. If the owner is other than an individual or individuals, identify those persons authorized to approve a historic resource designation, and, as an attachment to the application, include a copy of the document establishing that authority. Use additional pages if necessary to list all owners.

Property Owner/Agent		
Street Address		
City	State	Zip
Email	Daytime Phone	

Property Owner/Agent		
Street Address		
City	State	Zip
Email	Daytime Phone	

Property Owner/Agent		
Street Address		
City	State	Zip
Email	Daytime Phone	

Property Information	
Property Address/Location	
Current Land Use	Original Land Use
General Plan Designation	Date of Construction
Present Zoning	Assessor's Parcel No
Type of Designation Requested (i.e. Landmark, Structure of Merit, etc.)	

**The following items are required for a complete application; incomplete applications will not be accepted**

- A \$250 deposit is required. Attach a check made payable to the County of Alameda.
- Attach a historical resource report and the required attachments.

Signature(s) and Certifications	
To the Board of Supervisors of the County of Alameda, California:	
I (we) hereby request the Board to consider and take the necessary action to list our property on the Alameda County Register of Historic Resources pursuant to Chapter 17.62 of the Alameda County Ordinance Code.	
_____	_____
Property Owner/Agent	Date
_____	_____
Property Owner/Agent	Date
_____	_____
Property Owner/Agent	Date

**ADDITIONAL INFORMATION:**

For information about assessments, taxes and/or parcel numbers, call or visit:

*Alameda County Assessor*  
Administration Building  
1221 Oak Street, Room 145  
Oakland, CA 94612  
Telephone: (510) 272-3787

For information about the County's Historic Preservation Program please visit  
[http://www.acgov.org/cda/planning/generalplans/historic\\_preservation.htm](http://www.acgov.org/cda/planning/generalplans/historic_preservation.htm)

# REQUIRED FORMS AND DOCUMENTATION- ALAMEDA COUNTY REGISTER OF HISTORIC RESOURCES

## Report Copies

- Provide one copy of the Historical Resource Report

## Department of Parks and Recreation Forms (Circle all that apply)

- Primary Record (523a)
- BSO Record (523b)
- Archaeological Record (523c) (if applicable)
- District Record (523d) (if applicable)
- Locational Map (523j) (if applicable)
- Sketch Map (523k) (if applicable)
- Continuation Sheet (523l)

## Attachment A: Building Development

- Building Permits
- Water/Sewer Connection Records
- Site Plan indentifying any additions
- County Lot and Block Book page  
Previous Historical Resource Survey
- Information

## Attachment B: Ownership and Occupancy

- Chain of Title
- Directory Search
- Deed from the Date of Construction

## Attachment C: Maps

- USGS Map
- Historical USGS Maps
- Original Subdivision Map
- Sanborn Maps

## Attachment D: Photographs

- Historical and Transitional Photos
- Current Photos of North Elevation
- Current Photos of East Elevation
- Current Photos of South Elevation
- Current Photos of West Elevation

- Attachment E: Analysis of Eligibility for the Alameda County Register**

# Attachment A

## *Building Development Information*

- A.1 – Building/Construction Permits
- A.2 – Water/Sewer Records
- A.3 – Site Plan with Footprint Showing Additions
- A.4 – County Lot and Block Book Page
- A.5 – Previous Survey Forms

# Attachment B

## *Ownership and Occupant Information*

B.1 – Chain of Title

B.2 – Directory Search of Occupants

B.3 – Deed from the Date of Construction

# Attachment C

## *Maps*

- C.1 – Current and Historical USGS Maps
- C.2 – Original Subdivision Map
- C.3 – Sanborn Maps

# Attachment D

## *Photographs*

D.1 – Historical Photographs

D.2 – Current Photographs

# Attachment E

*Analysis of Eligibility for the Alameda  
County Register*

Exhibit C-Amendments to the Planning Department's Master Fee Schedule

<b>APPLICATION TYPE</b>	<b>FEES/DEPOSIT</b>
Historic Designation	\$250.00 Deposit/At Cost
Mills Act Contract	\$500.00 Deposit/At Cost
Mills Act Inspection	\$250.00 Deposit/At Cost (Assessed every 5 years)

## GOVERNMENT CODE

### SECTION 50280-50290

50280. Upon the application of an owner or the agent of an owner of any qualified historical property, as defined in Section 50280.1, the legislative body of a city, county, or city and county may contract with the owner or agent to restrict the use of the property in a manner which the legislative body deems reasonable to carry out the purposes of this article and of Article 1.9 (commencing with Section 439) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code. The contract shall meet the requirements of Sections 50281 and 50282.

50280.1. "Qualified historical property" for purposes of this article, means privately owned property which is not exempt from property taxation and which meets either of the following:

(a) Listed in the National Register of Historic Places or located in a registered historic district, as defined in Section 1.191-2(b) of Title 26 of the Code of Federal Regulations.

(b) Listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.

50281. Any contract entered into under this article shall contain the following provisions:

(a) The term of the contract shall be for a minimum period of 10 years.

(b) Where applicable, the contract shall provide the following:

(1) For the preservation of the qualified historical property and, when necessary, to restore and rehabilitate the property to conform to the rules and regulations of the Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, and the State Historical Building Code.

(2) For an inspection of the interior and exterior of the premises by the city, county, or city and county, prior to a new agreement, and every five years thereafter, to determine the owner's compliance with the contract.

(3) For it to be binding upon, and inure to the benefit of, all successors in interest of the owner. A successor in interest shall have the same rights and obligations under the contract as the original owner who entered into the contract.

(c) The owner or agent of an owner shall record the contract with the county in which the property is located within six months of entering into the contract.

50281.1. The legislative body entering into a contract described in this article may require that the property owner, as a condition to entering into the contract, pay a fee that shall not exceed the reasonable cost of providing the service pursuant to this article for which the fee is charged.

50282. (a) Each contract shall provide that on the anniversary date of the contract or such other annual date as is specified in the contract, a year shall be added automatically to the initial term of the contract unless notice of nonrenewal is given as provided in this section. Each contract shall also provide that after five years, and every five years thereafter, the city, county, or city and county shall inspect the interior and exterior of the premises to determine the owner's continued compliance with the contract. If the property owner or the legislative body desires in any year not to renew the contract, that party shall serve written notice of nonrenewal of the contract on the other party in advance of the annual renewal date of the contract. Unless the notice is served by the owner at least 90 days prior to the renewal date or by the legislative body at least 60 days prior to the renewal date, one year shall automatically be added to the term of the contract.

(b) Upon receipt by the owner of a notice from the legislative body of nonrenewal, the owner may make a written protest of the notice of nonrenewal. The legislative body may, at any time prior to the renewal date, withdraw the notice of nonrenewal.

(c) If the legislative body or the owner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be.

(d) The owner shall furnish the legislative body with any information the legislative body shall require in order to enable it to determine the eligibility of the property involved.

(e) No later than 20 days after a city or county enters into a contract with an owner pursuant to this article, the clerk of the legislative body shall record with the county recorder a copy of the contract, which shall describe the property subject thereto. From and after the time of the recordation, this contract shall impart a notice thereof to all persons as is afforded by the recording laws of this state.

50284. If the legislative body determines that the owner has breached any of the conditions of the contract provided for in this article or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historical property, the legislative body shall do one of the following:

(a) Cancel the contract by following the procedures specified in Sections 50285 and 50286.

(b) Bring any action in court necessary to enforce a contract, including, but not limited to, an action to enforce the contract by specific performance or injunction.

50285. No contract shall be canceled under Section 50284 until after the legislative body has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be mailed to the last known address of each owner of property within the historic zone and shall be published pursuant to Section 6061.

50286. (a) If a contract is canceled under Section 50284, the owner shall pay a cancellation fee equal to 12 1/2 percent of the current fair market value of the property , as determined by the county assessor as though the property were free of the contractual restriction.

(b) The cancellation fee shall be paid to the county auditor, at the time and in the manner that the county auditor shall prescribe, and shall be allocated by the county auditor to each jurisdiction in the tax rate area in which the property is located in the same manner as the auditor allocates the annual tax increment in that tax rate area in that fiscal year.

(c) Notwithstanding any other provision of law, revenue received by a school district pursuant to this section shall be considered property tax revenue for the purposes of Section 42238 of the Education Code, and revenue received by a county superintendent of schools pursuant to this section shall be considered property tax revenue for the purposes of Article 3 (commencing with Section 2550) of Chapter 12 of Part 2 of Division 1 of Title 1 of the Education Code.

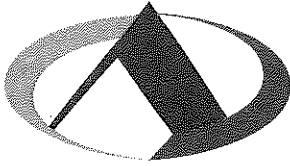
50287. As an alternative to cancellation of the contract for breach of any condition, a landowner that is a party to the contract may bring any action in court necessary to enforce a contract, including, but not limited to, an action to enforce the contract by specific performance or injunction.

50288. In the event that property subject to contract under this article is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the legislative body to frustrate the purpose of the contract, such contract shall be canceled and no fee shall be imposed under Section 50286. Such contract shall be deemed null and void for all purposes of determining the value of the property so acquired.

50289. In the event that property restricted by a contract with a county under this article is annexed to a city, the city shall succeed to all rights, duties, and powers of the county under such contract.

50290. Local agencies and owners of qualified historical properties may consult with the State Historical Resources Commission for its advice and counsel on matters relevant to historical property contracts.

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ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT

Chris Bazar  
Agency Director

Albert Lopez  
Planning Director

224  
West Winton Ave.  
Room 111

Hayward  
California  
94544

phone  
510.670.5400  
fax  
510.785.8793

[www.acgov.org/cda](http://www.acgov.org/cda)

**Environmental Checklist Form**  
**Prepared Pursuant to the California Environmental Quality Act (CEQA)**

**A. PROJECT DESCRIPTION**

1. **Project title:** Alameda County Historic Preservation Ordinance
2. **Project location:** Unincorporated Alameda County
3. **Project sponsor's name and address:** Alameda County Community Development Agency  
224 West Winton Avenue, Room 111, Hayward, CA 94544
4. **Lead Agency name and address:** Alameda County Community Development Agency  
224 West Winton Avenue, Room 111, Hayward, CA 94544
5. **Contact Person and phone number:** Elizabeth McElligott, Assistant Planning Director,  
(510) 670-5400
6. **General plan designation:** Not applicable. The Ordinance is not specific to a site or a community.
7. **Zoning:** Not applicable. See #6.
8. **Description of project:** The Alameda County Historic Preservation Ordinance would protect and preserve historic resources in unincorporated Alameda County by formally recognizing such resources and by providing financial incentives for their preservation. The Ordinance would also standardize the review process for development projects that involve or might otherwise affect historic resources. In order to accomplish these goals, the County has proposed an entirely new chapter of the County's Zoning Ordinance (Title 17), amendments to Chapter 2.86 of the County Administrative Code which authorizes and defines the responsibilities of the County's Parks Recreation and Historical Commission (PRHC), and amendments to Chapter 17.20 of the County's Zoning Ordinance which addresses Historic Preservation (HP) districts.
9. **Surrounding land uses and setting:** Alameda County is one of the nine San Francisco Bay Area counties, located along the eastern shore of the San Francisco Bay. The County covers approximately 738 square miles. Alameda County is one of only two Bay Area counties that spans an area that reaches from the Bay to California's Central Valley. The western portion of Alameda County is located generally on the East Bay Plain between the coastal hills and the Bay. The area is heavily urbanized and contains the incorporated cities of Albany, Berkeley, Piedmont, Oakland, Emeryville, Alameda, San Leandro, Hayward, Union City, Newark, and Fremont, as well as the unincorporated urban areas of Castro Valley, Fairview, San Lorenzo, Ashland, and Cherryland.  
  
Eastern Alameda County is primary composed of the coastal range's rough terrain that extends from the hills above the Bay Plain to the border with San Joaquin County in the Central Valley. It is comprised mainly of non-urban uses including agriculture, parkland, watershed, and open space. This area has relatively low population density except for the Livermore-Amador Valley, in which the incorporated cities of Dublin, Pleasanton, and Livermore are located.
10. **Other public agencies whose approval may be required:** None

**B. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Aesthetics                       | <input type="checkbox"/> Agriculture and Forest Resources             | <input type="checkbox"/> Air Quality                        |
| <input type="checkbox"/> Biological Resources             | <input type="checkbox"/> Climate Change and Green-house Gas Emissions | <input checked="" type="checkbox"/> Cultural Resources      |
| <input type="checkbox"/> Geology /Soils                   | <input type="checkbox"/> Hazards & Hazardous Materials                | <input type="checkbox"/> Hydrology and Water Quality        |
| <input checked="" type="checkbox"/> Land Use and Planning | <input type="checkbox"/> Mineral Resources                            | <input type="checkbox"/> Noise                              |
| <input type="checkbox"/> Population and Housing           | <input type="checkbox"/> Public Services                              | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Transportation and Traffic       | <input type="checkbox"/> Utilities / Service Systems                  | <input type="checkbox"/> Mandatory Findings of Significance |

**C. LEAD AGENCY DETERMINATION:**

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Elizabeth McElroy  
Signature

9/21/11  
Date

**D. EVALUATION OF ENVIRONMENTAL EFFECTS:**

The Environmental Checklist and discussion that follows is based on sample questions provided in the CEQA Guidelines (Appendix G) which focus on various individual concerns within 17 different broad environmental categories, such as air quality, climate change, cultural resources, land use, public services, noise and traffic (and arranged in alphabetical order). The Guidelines also provide specific direction and guidance for preparing responses to the Environmental Checklist. The sample questions are meant to be used to meet the requirements for an initial study when the criteria set forth in CEQA Guidelines have been met. Substantial evidence of potential environmental impacts that are not listed in the checklist must also be considered. The sample questions are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.

Each question in the Checklist essentially requires a “yes” or “no” reply as to whether or not the project will have a potentially significant environmental impact of a certain type, and, following a Checklist table with all of the questions in each major environmental heading, citations, information and/or discussion that supports that determination. The Checklist table provides, in addition to a clear “yes” reply and a clear “no” reply, two possible “in-between” replies, including one that is equivalent to “yes, but with changes to the project that the proponent and the Lead Agency have agreed to, *no*”, and another “no” reply that requires a greater degree of discussion, supported by citations and analysis of existing conditions, threshold(s) of significance used and project effects than required for a simple “no” reply. Each possible answer to the questions in the Checklist, and the different type of discussion required, is discussed below:

- a) Potentially Significant Impact. Checked if a discussion of the existing setting (including relevant regulations or policies pertaining to the subject) and project characteristics with regard to the environmental topic demonstrates, based on substantial evidence, supporting information, previously prepared and adopted environmental documents, and specific criteria or thresholds used to assess significance, that the project will have a potentially significant impact of the type described in the question.<sup>1</sup>
- b) Less Than Significant With Mitigation. Checked if the discussion of existing conditions and specific project characteristics, also adequately supported with citations of relevant research or documents, determine that the project clearly will or is likely to have particular physical impacts that will exceed the given threshold or criteria by which significance is determined, but that with the incorporation of clearly defined mitigation measures into the project, that the project applicant or proponent has agreed to, such impacts will be avoided or reduced to less-than-significant levels.
- c) Less Than Significant Impact. Checked if a more detailed discussion of existing conditions and specific project features, also citing relevant information, reports or studies, demonstrates that, while some effects may be discernible with regard to the individual environmental topic of the question, the effect would not exceed a threshold of significance which has been established by the Lead or a

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1 *Note:* for this subject application, this reply is not given for any of the questions, because all of the impacts are expected to be mitigated to less-than-significant levels with changes agreed to by the project proponent. CEQA requires that if the Checklist makes a determination that the project will have one or more potentially significant environmental impacts (and the project proponent does not agree to changes that would change the reply to the conditional “no” described in the following type of reply), an environmental impact report (EIR) is required. In such instances, the discussion may be abbreviated greatly if the Lead Agency chooses to defer the analysis to preparation of the EIR.

Responsible Agency. The discussion may note that due to the evidence that a given impact would not occur or would be less than significant, no mitigation measures are required.

- d) **No Impact.** Checked if brief statements (one or two sentences) or cited reference materials (maps, reports or studies) clearly show that the type of impact could not be reasonably expected to occur due to the specific characteristics of the project or its location (e.g. the project falls outside the nearest fault rupture zone, or is several hundred feet from a 100-year flood zone, and relevant citations are provided). The referenced sources or information may also show that the impact simply does not apply to projects like the one involved. A response to the question may also be "No Impact" with a brief explanation that the basis of adequately supported project-specific factors or general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a basic screening of the specific project).

The discussions of the replies to the Checklist questions must take account of the whole action involved in the project, including off-site as well as on-site effects, both cumulative and project-level impacts, indirect and direct effects, and construction as well as operational impacts. Except when a "No Impact" reply is indicated, the discussion of each issue must identify:

- a) the significance criteria or threshold, if any, used to evaluate each question; and
- b) the mitigation measure identified, if any, to reduce the impact to less than significance, with sufficient description to briefly explain how they reduce the effect to a less than significant level.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration (Section 15063(c)(3)(D) of the Guidelines). In this case, a brief discussion should identify the following:

- a) **Earlier Analysis Used.** Identify and state where they are available for review.
- b) **Impacts Adequately Addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
- c) **Mitigation Measures.** For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

1. AESTHETICS Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant with Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Have a substantial adverse effect on a scenic vista?				x
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				x
c) Substantially degrade the existing visual character or quality of the site and its surroundings?				x
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				x

Summary:

The proposed Ordinance will not have any potentially significant visual impacts as the Ordinance is designed to protect the historic and architectural integrity of historic resources in unincorporated Alameda County.

Mitigation Measures:

None.

<p><b>2. AGRICULTURE AND FOREST RESOURCES</b></p> <p>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the Project:</p>	<p>YES: Potentially Significant Impact</p>	<p>NO: Less Than Significant with Mitigation</p>	<p>NO: Less Than Significant Impact</p>	<p>NO: No Impact</p>
<p>a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?</p>				<p>✗</p>
<p>b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?</p>				<p>✗</p>
<p>c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?</p>				<p>✗</p>
<p>d) Result in the loss of forest land or conversion of forest land to non-forest use?</p>				<p>✗</p>
<p>e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?</p>				<p>✗</p>

Summary:

The proposed Ordinance will not have any potentially significant impacts on agricultural resources in unincorporated Alameda County.

Mitigation Measures:

None.

<b>3. AIR QUALITY</b> Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant with Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?				X
d) Expose sensitive receptors to substantial pollutant concentrations?				X
e) Create objectionable odors affecting a substantial number of people?				X

Summary:

The proposed Ordinance will not have any potentially significant impacts on air quality in unincorporated Alameda County.

Mitigation Measures:

None.

<b>4. BIOLOGICAL RESOURCES</b> Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian, aquatic or wetland habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?				<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				<input checked="" type="checkbox"/>
g) Result in conversion of oak woodlands that will have a significant effect on the environment?				<input checked="" type="checkbox"/>

Summary:

The proposed Ordinance will not have any potentially significant impacts on biological resources in unincorporated Alameda County.

Mitigation Measures:

None.

<b>5. CLIMATE CHANGE AND GREENHOUSE GAS EMISSIONS</b> Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?				<input checked="" type="checkbox"/>
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?				<input checked="" type="checkbox"/>

Summary:

The proposed Ordinance will not have any potentially significant impacts on climate change and greenhouse gas emissions in unincorporated Alameda County.

Mitigation Measures:

None.

6. CULTURAL RESOURCES Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 of the CEQA Guidelines?				x
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the CEQA Guidelines?				x
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?				x
d) Disturb any human remains, including those interred outside of formal cemeteries?				x

Discussion:

The Historic Preservation Ordinance establishes procedures for the nomination, designation, and alteration/demolition of historically significant properties and in general terms, provides further protection for historic resources in unincorporated Alameda County. The Historic Preservation Ordinance procedures will assist in establishing a more orderly and predictable process for the treatment of historic resources in unincorporated Alameda County and will further the following County goals:

- Establishment of an orderly and predictable process to govern the nomination, designation, and alteration/demolition of historically significant properties;
- Facilitation of continued County compliance with CEQA in the area of historic resources; and
- Application to the State Historic Preservation Office (SHPO) for Certified Local Government (CLG) certification. The County would be eligible to apply for CLG certification following the adoption of a historic preservation ordinance. The benefits of becoming a CLG include: eligibility for federal grants; direct participation in the nomination of historic properties to the National Register of Historic Places; opportunity for enhanced responsibilities to review and comment on development projects in compliance with federal environmental regulations; special technical assistance and training for staff and commission members; and potential for participation in the review of building rehabilitation plans for federal investment tax credits.

The basic components of the Historic Preservation Ordinance are: a) purpose and definitions; b) cultural resource surveys; c) Register criteria and process for placement and removal; d) permit process for the proposed alteration or demolition of a property listed on the County Register; e) procedures for the demolition of a structure over 50 years old; f) appeals; g) preservation incentives; h) preventative maintenance; and i) enforcement.

Chapter 2.86 of the County’s Administrative Code and Chapter 17.20 of its Planning Code would be revised as part of the proposed Ordinance amendment. Changes to Chapter 2.86 would update the membership composition/qualifications, and duties of the PRHC. The proposed amendment to Section 2.86.020 will bring PRHC membership requirements in conformance with State CLG certification requirements for participating local governments to have an adequate and qualified historic preservation review commission established by local law. The proposed amendment to Section 2.86.070 will update

the duties of the PRHC so that they are consistent with their current duties as they have evolved over the years and include those duties that will result from adoption of the new Ordinance. A revision to Section 17.20.060 clarifies the advisory role of the PRHC with respect to the rezoning of a parcel to the HP (Historic Preservation) zoning district.

If adopted, the Ordinance would establish the Alameda County Register of Historic Resources ("Register"). The Alameda County Register is a listing of those properties that have been approved by the Board of Supervisors as a Landmark, Historic Preservation District, or Structure of Merit. Owners of properties identified by the County in previous surveys of the Ashland, Castro Valley, Cherryland, East County, and San Lorenzo communities as noted in their respective surveys as being significant will be given the opportunity to opt in to the County's Register within 180 days of the adoption of the Ordinance by the Board of Supervisors. Upon receipt of their request to participate in the Register, the County will conduct a review of the resource to ensure that no changes or alterations have been performed that would render it ineligible for participation in the Register. Those properties retaining their historic/architectural integrity will be included on the Register. Properties not identified in those prior surveys will follow a different procedure outlined in the draft Ordinance; however, in no case would a property be listed without its owner's consent. Properties may be removed from the Register if the Board finds that the listed resource "no longer has significant aesthetic, cultural, architectural, or engineering interest or value of a historical nature"

The Historic Preservation Ordinance would require a Certificate of Appropriateness (C of A), discretionary approval, when a property owner proposes to alter or demolish a designated resource. The C of A process exempts preventative maintenance work, such as painting, roof repair, foundation or chimney work and landscape maintenance. A C of A would be closely coordinated with any other land development and building permit review required by the Planning Department and Building Inspections Division.

Alterations to resources listed on the Register must meet the Secretary of the Interior's Standards for the Treatment of Historic Properties or not destroy or adversely affect the integrity of the resource, unless a finding is made that there is no feasible alternative. The PRHC will make recommendations to the Planning Director on the approval/denial of C of A. Decisions of the Planning Director may be appealed to the Board of Supervisors.

In order to further the goal of historic preservation in the County, the Historic Preservation Ordinance commits the County to consider economic and other incentive programs including: financial incentives, permit streamlining, technical assistance, workshops and production of educational materials. Under the proposed Ordinance, the County would establish its own Mills Act program. The Mills Act allows local jurisdictions to enter into contracts with owners of qualified historic resources and provides for a reduction in local property taxes in exchange for a commitment from the owner to preserve the historic integrity and significance of the contracted historic resource.

The Historic Preservation Ordinance will facilitate the preservation of the historic significance and character of designated properties. The County currently has no codified criteria or procedures for listing historic resources, nor does the County have any codified review procedures when alteration of a historic resource has been proposed (with the exception of historic resources that are located in a Historic Preservation District which generally require a Site Development Review.) In total, adoption of the Historic Preservation Ordinance will result in a more comprehensive and systematic process for the protection of historic resources in unincorporated Alameda County.

Mitigation Measures:

None.

7. GEOLOGY AND SOILS Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				x
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				x
ii) Strong seismic ground shaking?				x
iii) Seismic-related ground failure, including liquefaction?				x
iv) Landslides?				x
b) Result in substantial soil erosion or the loss of topsoil?				x
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				x
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				x
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				x

Summary:

The proposed Ordinance will not have any potentially significant impacts on geology and soils in unincorporated Alameda County.

Mitigation Measures:

None.

8. HAZARDS AND HAZARDOUS MATERIALS Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				x
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				x
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				x
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				x
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				x
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				x
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				x
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				x

Summary:

The proposed Ordinance will not have any potentially significant impacts on hazards and hazardous materials in unincorporated Alameda County.

Mitigation Measures:

None.

<p><b>9. HYDROLOGY AND WATER QUALITY</b>                      Would the project:</p>	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Violate any water quality standards, conflict with water quality objectives, fail to meet waste discharge requirements, significantly degrade any surface water body or groundwater, or adversely affect the beneficial uses of such waters, including public uses and aquatic, wetland and riparian habitat?				<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site (i.e. within a watershed)?				<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff (e.g., due to increased impervious surfaces) in a manner which would result in flooding on- or off-site (i.e. within a watershed)?				<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems due to changes in runoff flow rates or volumes?				<input checked="" type="checkbox"/>
f) Result in a significant increase in pollutant discharges to receiving waters (marine, fresh, and/or wetlands) during or following construction (considering water quality parameters such as temperature, dissolved oxygen, turbidity, and typical stormwater pollutants such as heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash)?				<input checked="" type="checkbox"/>
g) Result in an increase in any pollutant for which a water body is listed as impaired under Section 303(d) of the Clean Water Act?				<input checked="" type="checkbox"/>
h) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				<input checked="" type="checkbox"/>
i) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				<input checked="" type="checkbox"/>
j) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				<input checked="" type="checkbox"/>
k) Inundation by seiche, tsunami, or mudflow?				<input checked="" type="checkbox"/>

Summary:

The proposed Ordinance will not have any potentially significant impacts on hydrology and water quality in unincorporated Alameda County.

Mitigation Measures:

None.

<b>10. LAND USE AND PLANNING</b> Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Physically divide an established community.				x
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				x
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				x

Discussion:

The proposed Ordinance will codify strategies to: inventory and evaluate historic resources; prevent or minimize impacts to historic resources; and restore, enhance and commemorate resources. The proposed Ordinance would not conflict with any existing land use policy or regulation. As a result, the proposed Ordinance would not have any potentially significant impacts on land use in unincorporated Alameda County.

Mitigation Measures:

None.

11. MINERAL RESOURCES Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant W/ Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				✗
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				✗

Summary:

The proposed Ordinance will not have any potentially significant impacts on mineral resources in unincorporated Alameda County.

Mitigation Measures:

None.

12. NOISE Would the project result in:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				x
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				x
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				x
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				x
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				x
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				x

Summary:

The proposed Ordinance will not have any potentially significant impacts on noise hazards in unincorporated Alameda County.

Mitigation Measures:

None.

<b>13. POPULATION AND HOUSING</b> Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				<input checked="" type="checkbox"/>

Summary:

The proposed Ordinance will not have any potentially significant impacts on population and housing in unincorporated Alameda County.

Mitigation Measures:

None.

<b>14. PUBLIC SERVICES</b> Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Fire protection?				X
b) Police protection?				X
c) Schools?				X
d) Parks?				X
e) Other public facilities?				X

Summary:

The proposed Ordinance will not have any potentially significant impacts on public services in unincorporated Alameda County.

Mitigation Measures:

None.

<b>16. TRANSPORTATION</b> Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?				<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?				<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?				<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?				<input checked="" type="checkbox"/>

Summary:

The proposed Ordinance will not have any potentially significant impacts on transportation in unincorporated Alameda County.

Mitigation Measures:

None.

17. UTILITIES AND SERVICE SYSTEMS Would the project:	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				x
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				x
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				x
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				x
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				x
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				x
g) Comply with federal, state, and local statutes and regulations related to solid waste?				x

Summary:

The proposed Ordinance will not have any potentially significant impacts on public utilities in unincorporated Alameda County.

Mitigation Measures:

None.

18. MANDATORY FINDINGS OF SIGNIFICANCE	YES: Potentially Significant Impact	NO: Less Than Significant With Mitigation	NO: Less Than Significant Impact	NO: No Impact
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			x	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)			x	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?				x

Discussion:

The proposed Ordinance will not have a significant new impact on the environment, nor will the project create a new cumulative impact. As discussed in the section on Cultural Resources, the proposed Ordinance would preserve, protect, enhance and perpetuate resources of architectural, historical, and cultural merit within unincorporated Alameda County. Moreover, the Ordinance is consistent with existing land use regulations. Therefore, there will be a less than significant impact on cultural resources, land use and planning.

**E. SOURCES**

The following references (which are available for review at the Alameda County Planning Department 224 West Winton Avenue, Room 111, Hayward, CA 94544) were consulted to prepare the Initial Study Checklist:

- Eden Area General Plan, adopted March 30, 2010.
- General Plan, County of Alameda (Land Use and Circulation Elements), adopted May 26, 1966. Amended August 27, 1969; June 6, 1974; October 10, 1974; November 3, 1977; August 8, 1978; January 4, 1979; December 16, 1980; November 3, 1984; and April 5, 1984.
- Castro Valley Plan, adopted June 15, 1961. Amended January 29, 1974; August 8, 1978; April 4, 1985; modified by voters through Measure D, November, 2000, codified by Board of Supervisors May, 2002.
- Livermore-Amador Valley Planning Unit General Plan, adopted November 3, 1977. Amended January 4, 1979; December 16, 1980; November 3, 1983; April 5, 1984; December 12, 1989. Superseded by the East County Area Plan, adopted May 5, 1993; modified by voters through Measure D, November, 2000, codified by Board of Supervisors May, 2002.
- General Plan for the Central Metropolitan, Eden and Washington Planning Units, adopted January 13, 1981. Amended November 3, 1983.
- Unincorporated Eden (Portion) Area Plan, adopted November 3, 1983.
- Housing Element, adopted March 30, 2010, amended April 12, 2011.
- Park and Recreation Element, adopted June 12, 1956. Amended November 21, 1968.
- Scenic Route Element, adopted May 5, 1966.
- Open Space Element, adopted May 31, 1973. Amended December 12, 1989.
- Conservation Element, adopted January 8, 1976. Amended November 23, 1976.
- Seismic and Safety Elements, adopted January 8, 1976. Amended August 5, 1982, and September 14, 2010.
- Noise Element, adopted January 8, 1976.
- Alameda County Assessor's Williamson Act Subvention data as of December 31, 2008.
- Fairview Area Specific Plan, adopted September 4, 1997.
- CEQA Guidelines

## **ADDENDUM**

### **DRAFT INITIAL STUDY/NEGATIVE DECLARATION ALAMEDA COUNTY HISTORIC PRESERVATION ORDINANCE**

#### **COMMENTS AND RESPONSES TO THE INITIAL STUDY AND NEGATIVE DECLARATION**

This addendum includes a reproduction of, and response to, the letter received during the public review period. The letter has been reproduced in its entirety and is immediately followed by a response.



Sara N. Pasquinelli  
spasquinelli@fablaw.com

October 12, 2011

**VIA FACSIMILE AND ELECTRONIC MAIL**

Angela Robinson-Piñon, Planner II  
Alameda County Community Development Agency, Planning Department  
224 West Winton Avenue, Room 111  
Hayward, CA 94544

Re: CEQA Comments Regarding Initial Study and Negative Declaration for  
the Alameda County Historic Preservation Ordinance

Dear Ms. Piñon:

This law firm represents Duane and Carolyn Doyle, Trustees of the Duane S. and Carolyn S. Doyle Trust (“the Doyles”), owners and residents of 24829 Palomares Road, located in Castro Valley. On behalf of the Doyles, we have been following the County of Alameda’s (“County”) progress relating to adoption of the Historic Preservation Ordinance (“Ordinance”) over the past several years. We have reviewed the County’s Draft Initial Study/Negative Declaration (IS/ND) for the Ordinance and submit the following comments.

**The IS/ND Adequately Supports the “Opt-In” Version of the Ordinance**

The IS/ND specifically analyzes the potential impacts of the “opt-in” version of the Ordinance, which was recommended for approval by the Parks, Recreation and Historical Commission (“PRHC”) on August 4, 2011.<sup>1</sup> That is, the Ordinance as proposed by the PRHC is the Proposed Project for CEQA purposes.

The IS/ND concludes, based upon analysis presented, that the “opt-in” version of the Ordinance will have less than significant impacts on cultural resources and land use and planning. The IS/ND further concludes that the “opt-in” version of the Ordinance will not have any potentially significant impacts on other resource areas.<sup>2</sup>

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<sup>1</sup> See, IS/ND at pp. 10-11.

<sup>2</sup> See, IS/ND.

Because the IS/ND bases its CEQA analysis and conclusions on the “opt-in” version of the Ordinance, any deviation from the “opt-in” posture, would, therefore, require further CEQA review and public comment. That is, should the prior mandatory or “opt-out” versions of the Ordinance, or any other permutation of the Ordinance, be considered for adoption by the Board of Supervisors, such a change would constitute a change in the Proposed Project such that the potentially significant impacts on the environment created by those different versions would need to be fully considered and analyzed by the County in a subsequent CEQA document, and the public would need to be provided with an opportunity to comment upon the adequacy of a new CEQA document in connection with that different project.

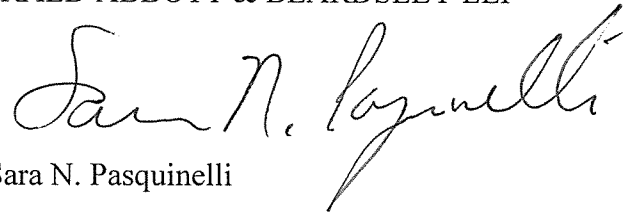
Thank you for the opportunity to comment.

Very truly yours,

FITZGERALD ABBOTT & BEARDSLEY LLP

By

Sara N. Pasquinelli

A handwritten signature in black ink, appearing to read "Sara N. Pasquinelli", written over a horizontal line.

## RESPONSE TO ATTORNEY PASQUINELLI'S LETTER

The comments from Attorney Pasquinelli do not question the adequacy of the Draft Initial Study/Negative Declaration, but rather describes what action should be taken should the Board of Supervisors ("Board") adopt an ordinance that deviates from the "opt-in" version that was recommended by the Alameda County Parks, Recreation and Historical Commission (PRHC) on August 4, 2011. At its October 17, 2011 meeting, the Alameda County Planning Commission recommended that a new draft of the Ordinance be sent to the Board for approval. While most of the changes endorsed by the Planning Commission are technical or otherwise non-substantive in nature and are therefore consistent with draft ordinance proposed by the PRHC, the draft ordinances differ in the following ways:

- The ordinance alternative includes a provision to allow the PRHC to draft a non-recommendation and transmit that non-recommendation to the Board for properties where the owner has withheld their consent. (Section 17.##.100, paragraph F)
- If the Board is considering a non-recommendation by the PRHC, the Board may by unanimous vote place a property on the Register, even if the property owner has withheld their consent. (Section 17.##.110, paragraph A)

Section 15073.5 of the Guidelines for the California Environmental Quality Act (CEQA) provides guidance on the recirculation of a Negative Declaration prior to adoption by a hearing body. Under Section 15073.5, a Negative Declaration must be recirculated when it "must be substantially revised after public notice of its availability...but prior to its adoption". The section goes on to define the term "substantial revision":

*"A 'substantial revision' of the negative declaration shall mean:*

- (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or*
- (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required."*

The draft recommend by the Planning Commission, although different from that approved by the PRHC, would neither create "a new, avoidable significant effect" or require new mitigation measures or project revisions.

Section 15073.5, paragraph c provides exclusions for recirculation a negative declaration:

*Recirculation is not required under the following circumstances:*

- (1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.*
- (2) New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects.*

- (3) *Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.*
- (4) *New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.*

No mitigation measures were included in the Draft Initial Study/Negative Declaration, nor would any be required under the Ordinance proposed by the Planning Commission. There are no project revisions which have been added in response to comments received on the project's effects which are "new avoidable significant effects." No "measures or conditions of project approval" not required under CEQA have been added that create a new significant effect, and are not required to mitigate an identified avoidable significant effect. The information in this response is consistent with Section 15073.5 (c)(4) in that it is new information which has been added to the Draft Initial Study/Negative Declaration that it "merely clarifies, amplifies, or makes insignificant modifications to the negative declaration".

Based upon its analysis of the proposed revisions, the Draft Initial Study/Negative Declaration, and CEQA staff has concluded that, if adopted, the Ordinance recommended by the Planning Commission on October 17, 2011 would not cause a new, potentially significant change in the environment that was not considered or analyzed in the Draft Initial Study/Negative Declaration released on September 22, 2011. Therefore, no additional review is required.