

**CITY OF OAKLAND**  
**AGENDA REPORT**

2010 NOV -4 PM 1:03

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Community and Economic Development Agency  
DATE: November 16, 2010

RE: **RESOLUTION APPROVING FIVE (5) MILLS ACT CONTRACTS BETWEEN THE CITY OF OAKLAND AND THE PROPERTIES AT 2801 HARRISON STREET (ESTIMATED - \$665/YEAR PROPERTY TAX REDUCTION), 1081 53<sup>rd</sup> STREET (ESTIMATED - \$644/YEAR PROPERTY TAX REDUCTION ), 1926 MARTIN LUTHER KING JR. WAY (ESTIMATED - \$448/YEAR PROPERTY TAX REDUCTION), 2651 22<sup>nd</sup> AVENUE (ESTIMATED - \$1,502/YEAR PROPERTY TAX REDUCTION), AND 1615 BROADWAY (ESTIMATED - \$21,762/YEAR PROPERTY TAX REDUCTION), PURSUANT TO ORDINANCE NO. 12987 C.M.S., TO PROVIDE THESE OWNERS WITH PROPERTY TAX REDUCTIONS IN EXCHANGE FOR THEIR AGREEMENT TO REPAIR AND MAINTAIN THEIR HISTORIC PROPERTY IN ACCORDANCE WITH SUBMITTED WORK PROGRAMS.**

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**SUMMARY**

Per City Council Ordinance No. 12987 C.M.S. (*Attachment A*), a permanent Mills Act Property Tax Abatement Program (Program) was adopted on January 5, 2010, following successful implementation of a two-year Pilot Program. The Mills Act Program is a preservation incentive adopted by California in 1976 that allows reductions of property tax assessments for historic properties if the owner signs an agreement with the local government to preserve and maintain the historic characteristics of the property.

The Ordinance sets a limit on City tax revenue losses to \$25,000/year and on Redevelopment tax revenue losses to \$25,000/year in any single redevelopment area with a cumulative limit of \$250,000/year for all redevelopment areas with the exception of the Central Business District. In the Central Business District, program impacts on Redevelopment tax revenue losses are limited to \$100,000/building/year with a cumulative limit of \$250,000/year. Additionally, any Mills Act Program property application, whose estimated City/Redevelopment tax revenue loss exceeds the above limits, may request special consideration by the City Council.

Twenty-one Mills Act Applications were submitted to the City in 2008 for the first year; ten were approved, and seven were recorded with Alameda County. Six applications were submitted

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in 2009, five complete; six from 2008 were recommended for approval for a total of eleven approved contracts. Nine were recorded with Alameda County. The City currently has a total of 16 Mills Act contracts. Five have been submitted this year. One of the five 2010 applications is a resubmittal from the first year because estimated Redevelopment revenue loss exceeded the original Program limits. Under the Program's expanded Redevelopment revenue reduction limits in the Central Business District, this application will now comply.

## **FISCAL IMPACT**

Approval of this resolution will authorize agreements between the City of Oakland and five qualified historic properties, through which the property owners may receive property tax reductions in exchange for their agreement to invest the dollar reduction amount to repair and maintain their historic property in accordance with their submitted work program, incorporated in the contract. Upon receipt of an executed contract, the County Tax Assessor is directed by State law to re-assess the value of the property, which may result in a reduction of property tax, and subsequently a reduction in City/Redevelopment tax revenues. The estimated amount of revenue loss for the 5 new contracts in year 1 is \$1,309 for those applications in non-redevelopment areas, \$1,950 in Redevelopment areas, and \$21,762 in the Central Business District, totaling \$25,021. The Mills Act revenue loss limits outlined in the Ordinance are \$25,000/year for non-redevelopment area losses, \$250,000 for Redevelopment losses, and \$100,000/building/year for the Central Business District. All estimated revenue losses comply with the Ordinance limits. Tables Ia and IIa below provide projected future losses as requested by the City Council in 2009, for the next five and ten years. There are many variables that will determine actual losses/gains in future years, making the five and ten year analysis speculative at this time. Some of these variables are:

- Number of applications submitted each year: The first year of the Pilot program yielded 21 applications. The second year yielded only six applications. This year yielded four applications and one resubmittal.
- Mix of applications submitted each year: Preliminary projections illustrate that larger commercial building net gains would offset smaller residential losses.
- Property size and timing of rehabilitation completion: The work programs submitted and tax revenue estimates for the larger Central Business District commercial buildings indicate a short rehabilitation completion time (1 to 2 years) and a subsequent early tax revenue net gain, even accounting for Mills Act reductions.
- Percentage of loss/gain to actual gross annual tax revenues: Last year's percentages of the maximum allowed losses indicate a small loss, based on the projected gross tax revenues – 0.02% of the City's annual tax revenues

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and 0.21% of the Redevelopment Agency's annual tax revenues. The projected loss estimates indicate that the losses are well below the maximums allowed by Ordinance. Tax revenues can increase or decrease in the future years.

- County Tax Assessor's interpretation of repairs/maintenance versus improvements: improvements trigger assessment increases while repair/maintenance do not.

The initial contract is for 10 years; at the end of each year that term is automatically extended one year, unless the owner or the City gives notice to not to renew the contract. If the notice is given, the contract remains in effect for the balance of the current 10-year contract.

The contract stays with the property, that is, the contract automatically transfers to each new property owner and the property is not reassessed to its full market value upon sale.

The penalty for breach of contract is 12.5% of the current property value.

The first seven Mills Act contracts went into effect in the 2009-2010 tax assessment billing. The second nine Mills Act contracts went into effect in the 2010-2011 tax assessment billing. The third year's proposed five contracts will go into effect in the 2011-2012 tax assessment billing.

Using a Mills Act Calculator<sup>1</sup> as an estimator to check compliance with limits set out in the Ordinance, the five recommended applications result in the following estimated tax reductions to applicants (Column 5) and to City/Redevelopment revenues (Columns 6).

Table I describes the loss of the two City applications, not in redevelopment areas. Based on County records, Column three lists the current yearly property taxes on each property. Column four lists the estimated Mills Act calculated property taxes. Column four lists the difference between the current property taxes and the estimated Mills Act calculated property taxes. The City receives approximately 27.28% of property taxes. Column five lists the loss of property taxes to the City, 27.28% of the change in property taxes due to the Mills Act calculation.

**A total loss of \$1,309 complies with the City tax revenue loss limit of \$25,000/year.**

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<sup>1</sup> The City makes no warranties or representations about the accuracy or validity of the Mills Act Property Tax Calculator – it is merely an information tool that applicants may use (at their sole risk), which does not substitute/replace legal counsel or a financial advisor. Actual tax reductions, if any, will be calculated by the County Assessor's Office after the Assessor has received the executed Mills Act contracts.

**Table I – Residential Properties not in a Redevelopment Area**

1 Mills Act Application Number	2 City (C ) (Not in a Redevelopment Area)	3 Current Property Taxes	4 Mills Act Taxes Based on Mills Act Calculator Estimator	5 Change in Taxes (Current – Mills Act Estimated)	6 City Tax Revenue Loss (27.28% of Tax Change) – Year 1
MA10-001	( C )	\$5,223	\$2,786	(\$2,437)	(\$665)
MA10-002	(C)	\$5,680	\$3,320	(\$2,360)	(\$644)

**TOTAL City Tax Revenue Loss Year 1 -  
 2010 Mills Act Applications** **(\$1,309)**

Table Ia lists the estimated cumulative loss of taxes, based on the average of the first three years of Mills Act applications and their respective losses. Since this is year 3 of the program, the second column lists this year's losses for the previous two years' contracts and these years' 2 applications. Nine of the applications included are in City areas, not in Redevelopment areas. If the City receives the same average number of applications per year with the same average tax losses, the following columns demonstrate the projected tax revenue losses and the projected number of Mills Act properties for 2015 and 2020.

**Table Ia – Tax Revenue Cumulative Losses – based on applications 2008-2010**

	2010 Year 3	2015 Year 8	2020 Year 13
City Tax Revenue Losses: Based on Actual 2008-2010 Application Average \$4,060/year 3 apps/yr	(\$24,360) 9 parcels	(\$146,160) 24 parcels	(\$369,460) 39 parcels

Table II describes the loss of the two Redevelopment applications. Based on County records, Column three lists the current yearly property taxes on each property. Column four lists the estimated Mills Act calculated property taxes. Column five lists the difference between the current property taxes and the estimated Mills Act calculated property taxes. Redevelopment areas receive approximately 80% of property taxes. Column six lists the loss of property taxes to the Redevelopment Agency, 80% of the change in property taxes due to the Mills Act calculation. **A loss of \$1,950 complies with the Redevelopment tax revenue loss limit of \$250,000 per year.**

**Table II – Residential Properties in Redevelopment Areas**

1 Mills Act Application Number	2 Redevelopment (R) Area	3 Current Property Taxes	4 Mills Act Taxes Based on Mills Act Calculator Estimator	5 Change in Taxes (Current – Mills Act Estimated)	6 Redevelopment Tax Revenue Loss (80% of Taxes) – Year 1
MA10-003	( R )	\$3,778	\$3,218	(\$560)	(\$448)
MA10-004	( R )	\$3,656	\$1,778	(\$1,878)	(\$1,502)

**TOTAL Redevelopment Tax Revenue Loss Year 1 -  
 2010 Mills Act Applications ( \$1,950 )**

Table IIa lists the estimated cumulative loss of taxes, based on the average of the first three years of Mills Act applications and their respective losses for the previous two years' contracts and this year's 2 applications. Since this is year 3 of the program, the second column lists this year's losses. Twelve of the applications included are in Redevelopment areas. If the City receives the same average number of applications per year in Redevelopment areas with the same average tax losses, the following columns demonstrate the projected tax revenue losses and the projected number of Mills Act properties for 2015 and 2020.

**Table IIa – Tax Revenue Cumulative Losses – based on applications 2008-2010**

	2010 Year 3	2015 Year 8	2020 Year 13
Redevelopment Tax Revenue Losses: Based on Actual 2008- 2010 Application Average \$9,564/year 4 apps/yr	(\$57,384) 12 parcels	(\$344,304) 32 parcels	(\$870,324) 52 parcels

Table III lists all of the 14 condominiums of the property, the Cathedral Building, in the Central Business District. The first 12 condominiums have not been sold and are taxed at the current unsold value of the condominium. The table demonstrates that the current taxes are very low due to vacancy or an underutilized property. In many cases, the Mills Act Estimated taxes, typically significantly below current taxes, are very close to the current taxes. Once a rehabilitated condo is sold (see #13), taxes increase to the extent that even when the owner receives a Mills Act reduction, **the City receives a net gain of \$907/year above the pre-rehabilitation taxes** ( $\$3,323 - \$2,189 = \$1,134 \times .8 = 907$ ). Projecting sale of all condos, the tax revenue losses would be ( $\$20,401/3 = \$6,800$  average/condo)  $\$6,800 \times 14$  condos for a total of \$95,200. **A loss of \$95,200 complies with the Central Business District tax revenue loss limit of \$100,000/building /year, approved by City Council in 2009**, in order to promote rehabilitation of the CBD's historic buildings. However, as demonstrated by Condo 13, even with the Mills Act revenue loss, rehabilitation provides for a net gain in tax revenues.

**Table III – Central Business District – Large Commercial Property**

Mills Act Application Number	Redevelopment (R) Area	Current Property Taxes	Mills Act Taxes Based on Mills Act Calculator Estimator	Change in Taxes (Current – Mills Act Estimated)	Redevelopment Tax Revenue Loss (80% of Taxes) – Year 1
MA10-005	1 (Commercial)	\$3579	\$3323	(\$256)	(\$205)
	2 (Common area – not taxed)				
	3 (Residential)	\$2,208	\$2,786	\$578	-----
	4(Residential)	\$2,246	\$2,786	\$541	-----
	5(Residential)	\$2,855	\$2,786	(\$69)	\$(55)
	6(Residential)	\$2,855	\$2,786	(\$69)	\$(55)
	7(Residential)	\$2,855	\$2,786	(\$69)	\$(55)
	8(Residential)	\$3,257	\$2,786	(\$470)	\$(376)
	9(commercial)	\$3,278	\$3,323	\$45	-----
	10(Commercial)	\$3,579	\$3,323	(\$256)	(\$205)
	11(Commercial)	\$3579	\$3,323	(\$256)	(\$205)
	12(Commercial)	\$3579	\$3,323	(\$256)	(\$205)
	13(Commercial) <b>Before sale</b>	\$2,189	\$3,323	\$1,134	-----
	<b>13 after sale</b>	\$11,621	\$3,323	(\$8,298)	(\$6,638)
	15(Commercial)	\$11,300	\$3,323	(\$7,977)	(\$6,382)
	14/16 (Residential)	\$12,012	\$2,786	(\$9,226)	(\$7,381)

**TOTAL Redevelopment Tax Revenue Loss Year 1 -  
 2010 Mills Act Applications** **(\$21,762)**

**BACKGROUND**

Five Mills Act Applications were submitted to the City for the third year of the Mills Act Program. One of the five applications is a resubmit from the first year of the Mills Act Pilot Program. Under implementation of the Pilot Program, it was discovered that large commercial properties' estimated tax revenue losses exceeded the loss limits, and therefore three 2008 applications were not able to move forward. Following last year's City Council approved increases for tax revenue loss limits in the Central Business District, staff inquired if the previous

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three applicants wished to resubmit. One applicant located in the Central Business District resubmitted.

Of the five applications considered this year, one is a City of Oakland Landmark and also listed on the National Register of Historic Places, both individually and as a contributor to the Downtown National Register Historic District; one is a City of Oakland, Local Register Property<sup>2</sup>; and three are Oakland Cultural Heritage Survey (OCHS), Potential Designated Historic Properties (PDHP). Four have concurrently applied for and been designated as City of Oakland Heritage Properties. One contributes to an OCHS Area of Primary Importance (API) historic district; two contribute to Area of Secondary Importance (ASI) historic districts.

Of the five applications two are located in the Central District Redevelopment area and one is located in the Central City East Redevelopment area. The remaining two are not in Redevelopment areas. The 2008 – 2010 Mills Act Applications Map, Geographic Distribution, is attached (*Attachment B*).

The individual applications are further described below.

***Landmark Preservation Advisory Board Recommendations –  
August 9, 2010 and September 13, 2010***

Staff recommendations to the Landmarks Preservation Advisory Board (LPAB) to forward a recommendation to the City Council were based on Selection Criteria, including:

- the property's historic status
- the financial scope of the work program must equal or be greater than the property tax reduction;
- the visibility of the work, scope of the work in proportion to the scale of the property, and prominence of the building;
- the potential of the scope of work to act as a neighborhood catalyst;
- the need for stabilization of the property (structural, seismic work);
- the timeline of the work program over the next ten years;
- geographic distribution of applications to represent the Mills Act Program citywide;
- building type of the property to represent the Mills Act Program for a variety of building types including residential, commercial, etc., and

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<sup>2</sup> A local register property is a building with an Oakland Cultural Heritage Survey rating of 'A' or 'B', a Potential Designated Historic Property (PDHP) located in an Area of Primary Importance, a property listed on the Preservation Study List. Local Register properties and other PDHPs are required to concurrently submit an application for Landmark Designation.



- location in the West Oakland Redevelopment Area or the Central City East Redevelopment Area;

Additional criteria were adopted by the City Council in 2009 for large commercial structures in the Central Business District as follows:

- Mills Act Tax Calculator estimates a net gain following rehabilitation;
- The work program time line is expedited indicating completion of the rehabilitation in one to two years;
- Revitalization of a vacant or underutilized building;
- 1<sup>st</sup> floor proposed uses have potential to enhance pedestrian activity;
- Proposed uses are supportive or complementary to adjacent uses.

At the August 9, 2010 LPAB meeting, the Board unanimously passed a **MOTION** made by Naruta and seconded by Garry to:

- 1) recommend the two applications<sup>3</sup> outlined in the staff report for recommendation to the City Council, for the 2010 Mills Act Program;
- 2) forward the same recommendation to the Planning Commission as in Information Item (as required by the adopted process).

At the September 13, 2010 LPAB meeting, the Board passed a **MOTION** made by Muller and seconded by Biggs to:

- 1) recommend the three applications<sup>4</sup> outlined in the staff report for recommendation to the City Council, for the 2010 Mills Act Program;
- 2) forward the same recommendation to the Planning Commission as in Information Item (as required by the adopted process).

At the October 6, 2010 Planning Commission meeting, the five 2010 Mills Act Contract applications were presented to the Commission as a Director's Report.

## KEY ISSUES AND IMPACTS

Staff took a multi-layered approach to review and evaluate the applications for recommendation to the LPAB, including a meeting with each applicant and a site visit to the application property, review of the application materials submitted, the Selection Criteria addressed in the application,

<sup>3</sup> MA10-001 – 2801 Harrison Street and MA10-002 – 1081 53<sup>rd</sup> Street

<sup>4</sup> MA10-003 – 1926 Martin Luther King Jr. Way, MA10-004 – 2651 22<sup>nd</sup> Avenue, and MA10-005 – 1615 Broadway

and Standards developed and approved by the LPAB in 2008. Much of staff discussion focused on the immediate necessity of the work to deter any further deterioration, visibility of the work being proposed to act as a catalyst for neighborhood revitalization and as a model for the Mills Act Program, neighborhood diversity to spread the program to as many neighborhoods as possible, building type diversity to illustrate the flexibility of the Mills Act for different types of properties and the thoroughness of the application above and beyond being ‘Complete.’ Listed below are the five Mills Act Contract recommendations.

**1 - MA10-001 – 2801 Harrison Street**

*OCHS Rating:* B-2+, Major Importance,  
Contributor to an Area  
of Secondary  
Importance  
*Redevelopment District:* Not in a Redevelopment  
District  
*Council District:* 3 (Nadel)



*Significance:* Built in 1903, this craftsman home is a neighborhood architectural anchor, with its striking gabled, flared roof, and shaped decorative rafters. Located at the split of Oakland Avenue and Harrison Street, the house is at a very visible, high-pedestrian and vehicular

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intersection. The porch, many faceted corner bay, dormers and tall clinker-brick chimney, appear most prominently. The Fairmount Avenue facing entry porch features three robust columnar supports sided like the rest of the house's exterior with cedar shingles.

Howard Pratt purchased Lot 3 of the Walsworth 100 Acres Tract and published a notice in the Edwards Transcript of Records that he was building a house at the northwest corner of Walsworth and Fairmount, and that he was the owner/contractor/builder. It was one of the first in the tract to be developed. Before these tracts were developed, they were sprawling estates of some of the most affluent Oaklanders of that time.

*Work Program (attached):*

- Remove four layers of roofing and re-roof;
- Window repairs and restoration, including leaded glass window;
- Shingle staining;
- Exterior painting;
- Floor leveling (new foundation completed in June 2009);
- Removal of duplex entry at front porch; restoration of porch.

*Application Strengths:*

- Prominent location for visibility of the work program;
- Catalyst for neighborhood revitalization;
- Conserving materials and energy embodied in existing building;
- Reversal of inappropriate work;
- Restoration of character defining features;
- Major repair/maintenance;

**2 - MA10-002 - 1081 53<sup>rd</sup> Street**

*OCHS Rating:* D2+, Minor Importance,  
Contributor to an Area  
of Secondary Importance

*Redevelopment District:* Not in a Redevelopment District

*Council District:* 1 (Brunner)



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*Significance:* Built in 1907, this duplex is a typical example of colonial revival, with shingle siding and a gable roof, including a dormer window centered above the front of the house. Its mid-block location, amongst other turn of the century homes on either side, provides high potential to act as a catalyst in this Area of Secondary Importance. While the shingles and roof are showing signs of weathering, the envelope of the building is in good condition.

*Work Program (attached):*

- Seismic retrofit;
- Roof repair;
- Window restoration;
- Shingle siding repair;
- Front porch repair.

*Application Strengths:*

- Strong potential to act as catalyst for neighborhood revitalization/part of a continuous group/streetscape whose continuity would be improved;
- Scope of work;
- Stabilization (seismic retrofit);
- Major repair/maintenance;
- Restoration of character defining features;
- Conserving materials and energy embodied in existing building;
- Neighborhood diversity.

**3. MA10-003 – 1926 Martin Luther King Jr. Way**

**Heritage Property Eligibility Preliminary Rating: B (23 points)**

**Heritage Property Eligibility Adjusted Rating: C (16.55 points)**



*OCHS Rating:* Dc3, Minor Importance with a  
Contingency rating of Secondary  
Importance, Not in a District  
*Redevelopment District:* Central District  
*Council District:* 3 (Nadel)



*Significance:* The Haelke house, is a representative example of a Queen Anne house. Built in 1885, this two-story structure, with attic and basement, is located on an interior lot. It has a hip and gable roof, tall windows, a two-story bay at the right front, and an inset gabled porch on the left. Details include wood sash windows, fairly simple millwork, including bargeboard button trim on the attic and front porch gables, sunburst and decorative shingle gables, turned posts and curved brackets on the front façade. Historic patterns include 19<sup>th</sup> century downtown central development. While this is one of the last remaining representative structures in the immediate area, it represents the historic residential fringe around downtown and has discontinuous continuity with the Cathedral District, Area of Primary Importance (API).

The work program includes removing siding to expose original, replacement of windows to match existing, new entry stairs, painting and seismic retrofit.

*Work Program:*

- Removal of asbestos siding;
- Replacement of 11 windows to match original;
- New entry stairs/railings;
- Painting; and
- Seismic retrofit.

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*Application Strengths:*

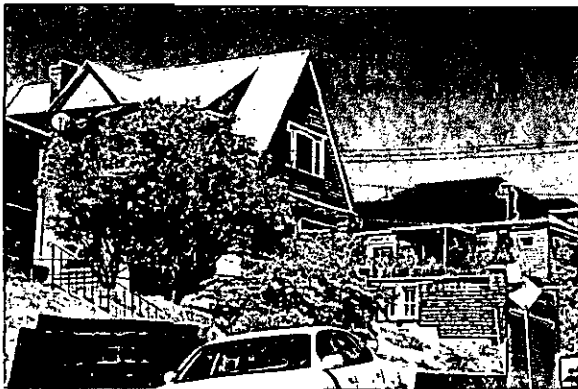
- *Seismic work;*
- *Prominent location;*
- *Increasing architectural integrity;*
- *Major repair/maintenance.*

**4. MA10-004 – 2651 22<sup>nd</sup> Avenue**

**Heritage Property Eligibility Preliminary Rating: C (17 points)**

**Heritage Property Eligibility Adjusted Rating: C (16.5 points)**

*OCHS Rating:* C3 Secondary Importance,  
Not in an historic district  
*Redevelopment District:* Central City East  
*Council District:* 2 (Kernighan)



Significance: Built in approximately 1910, with the garage addition in the 1920s, this is a classic example of the Eastern Shingle Cottage. Typical for this style, the ground floor has the characteristics of the Neoclassical Rowhouse, including a raised first story, a recessed front porch with a classic column and bay window. The wood windows with wide trim, the dentils forming a decorative band below the gabled roof, along with the wide, then narrow clapboard

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siding are also features shared with the Neoclassical Rowhouse. But the second level is different. Characteristic of the Eastern Shingle Cottage, a steep pitched, A-frame roof dominates the structure. Other notable detailing of the house includes the leaded glass windows in the bay and second level windows in front of the house. The footprints on the 1930 Sanborn map match the existing building footprint for the house and garage. Earlier maps indicate that this lot is part of the Wakefield subdivision of 1906, perhaps after the earthquake. It is representative of suburban neighborhood development and the advent of the automobile with the garage addition.

There have not been any major alterations to the house and garage. However, the structures have suffered from a lack of maintenance in recent years. Maintenance and minor alterations to be taken care of as part of the Mills Act contract include, painting, repair of trim and gutters, as necessary, the replacement of the inappropriate siding and door on the garage façade, and repair of front porch deck and stairs to replace dry rot.

*Work Program:*

- Painting;
- Repair/replacement, as necessary: trim, gutters, inappropriate siding and door of garage, front porch deck and stairs.

*Application Strengths:*

- Increasing architectural character;
- Preserving neighborhood character;
- Major repair/maintenance;
- Reversal of inappropriate work;
- Central City East Redevelopment Area;
- Neighborhood diversity.

**5. MA10-005 – 1615 Broadway**

**City of Oakland Landmark  
Individually Listed on the National Register  
Contributor to the National Register Downtown Historic District**

*OCHS Rating:* A1+ Highest Importance, Contributor to an Area of Primary Importance  
*Redevelopment District:* Central District  
*Council District:* 3 (Nadel)



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*Significance:* Constructed in 1913-14, the Federal Realty Building (Cathedral Building) is a 14-story skyscraper of steel-frame and reinforced concrete construction. Located on the narrow gore at the convergence of Broadway and Telegraph Avenue, it is richly decorated with Gothic ornamentation, especially at the top two floors. The building is clad in terra cotta and cast concrete decorative panels. The extensive decoration at the top two floors is made of hollow sheet metal.

The small ornate lobby retains most of its original features. Colonettes support a barrel vaulted ceiling. Elevator doors are bronze with panels. Walls are composed of polished Tavernelle marble with bases of red Verona marble.

*Work Program:*

- Seismic retrofit;
- Paint windows;
- Clean/restore terra cotta;
- Restore lobby;
- Restore exterior first floor retail including windows and storefronts.

*Application Strengths:*

- Visibility and prominence of location;
- Scope of work;
- Stabilization/seismic work;
- Reversal of inappropriate work;
- Building type diversity.

Please note that while a major portion of the work has been completed prior to obtaining a Mills Act Contract due to the Pilot Program limits on loss of tax revenues, staff recommends support of the application, as it was submitted in the first year of the Mills Act Program, but could not move forward at that time. Also note that there is work that remains to be done. The first floor exterior retail work remains to be completed.

The proposal complies with a number of new criteria established by the City Council in 2009. For the units that have sold, the Mills Act Tax calculator estimates a net gain; a substantial portion of the work has been completed in the last two years, following the first application for a Mills Act contract; and, prior to the rehabilitation, the building was vacant and underutilized. The Zoning for this site is Central Business District – Pedestrian (CBD-P). Currently, the first floor spaces have not been leased or sold. However, by its location in the CBD-P, it will be reviewed to comply with the intent of the district, to encourage and enhance a pedestrian-oriented streetscape.

This is a Condominium project. The City's Mills Act Contract will be modified to incorporate additional provisions applicable to condominium projects. The modifications will be reviewed by the City Attorney's Office to ensure that the modifications are in substantial conformity with the previously approved model Mills Act contract.

## **PROGRAM DESCRIPTION**

*The Mills Act Program is a preservation incentive adopted by California in 1976 that allows reductions of property tax assessments for historic properties if the owner signs an agreement with the local government agreeing to preserve the property, maintain its historic characteristics and, if necessary, restore the property.*

Many Bay area municipalities are using the Mills Act to revitalize their cities. In these cities, the Mills Act has acted as a catalyst for neighborhood revitalization since property owners who enter into an agreement are obligated to maintain and prevent deterioration of the property, in addition to complying with any specific restoration or rehabilitation provisions contained in the agreement.

A Mills Act Program would offer one of the few available incentives to owners of historic properties to pursue maintenance, repair and rehabilitation or restoration.

Important aspects of the Mills Act program include:

- The Mills Act Program is a voluntary program.
- The Mills Act contract is between the City and the owner of a designated historic structure.
- The initial contract is for 10 years; at the end of each year the term is automatically extended one year, unless the owner or the city gives notice to not renew the contract. If the notice is given, the contract remains in effect for the balance of the current 10-year contract.
- The Agreement requires that the owner preserve/rehabilitate and maintain cultural, historical and architectural characteristics of the listed historical property, as set forth in the Work Program schedule of improvements. In Oakland, the property tax savings are required to be invested back into the property.
- The Agreement provides for periodic inspections, as necessary, to determine the owner's compliance with the terms of the Agreement.

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- The penalty for breach of contract is 12.5% of the current property value.
- The contract stays with the property, that is, the contract automatically transfers to each new property owner and the property is not reassessed to its full market value upon sale.
- Upon receipt of an executed contract, the County Tax Assessor is directed by State law to re-assess the value of the property, which may result in a reduction of property tax.
- The reduction will vary depending on a number of factors. Studies have shown that the largest property tax reductions occur for properties purchased or reassessed in recent years.

## **SUSTAINABLE OPPORTUNITIES**

### ***Economic:***

Historic preservation or rehabilitation is labor intensive and will provide opportunities for professional services and construction related jobs for the Oakland community. Historic preservation or rehabilitation frequently involves specialty trades, craftspeople, products and suppliers. The Mills Act properties would provide opportunities for this sector of the construction industry.

Historic preservation or rehabilitation will increase the property value of each Mills Act participant. While these tax revenue losses to the City are minimal, it has been shown in other California cities that Mills Act properties act as catalysts for revitalization in the larger surrounding neighborhood. Overtime, with increased neighborhood property maintenance and enhancement, neighborhood property values will increase and tax revenues will follow.

### ***Environmental:***

Historic preservation or rehabilitation is sustainability on a grand scale. It conserves materials and energy embodied in existing building stock.

### ***Social Equity:***

Historic preservation or rehabilitation will assist in the revitalization of Oakland's historic buildings and neighborhoods citywide. Although applicants come from all areas of the City, each single project will act as a catalyst for neighborhood revitalization since property owners who enter into an agreement are obligated to maintain and prevent deterioration of the property.

Historic buildings reinforce a community's connection to its past and place. Revitalization of these historic properties will engender pride of neighborhood and community.

#### **DISABILITY AND SENIOR CITIZEN ACCESS**

The preservation or rehabilitation of existing historic commercial properties will require upgrades for handicapped accessibility.

#### **RECOMMENDATION(S) AND RATIONALE**

The LPAB recommends that the City Council adopt a Resolution to approve eleven Mills Act Contracts between the City of Oakland and the following Properties, as described under Key Issues and Impacts:

**2801 Harrison Street**  
**1081 53<sup>rd</sup> Street**  
**1926 Martin Luther King Jr. Way**  
**2651 22<sup>nd</sup> Avenue**  
**1615 Broadway**

**ACTION REQUESTED OF THE CITY COUNCIL**

Accept this report for the approval of five Mills Act Contracts between the City of Oakland and the properties outlined in this report, and adopt the Resolution to approve these agreements.

Respectfully submitted,



Walter S. Cohen, Director

Community and Economic Development Agency

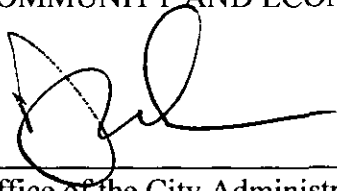
Reviewed by:

Eric Angstadt, Deputy Director

Prepared by:

Joann Pavlinec, Planner III  
Planning

APPROVED AND FORWARDED TO THE  
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE



Office of the City Administrator

Attachments: *A. Ordinance No.12987*

*B. 2008 – 2010 Mills Act Applications Map – Geographic Distribution*

Item: \_\_\_\_\_  
CED Committee  
November 16, 2010

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

Corrected  
APPROVED AS TO FORM AND LEGALITY  
Mark P. Walsh  
City Attorney

INTRODUCED BY COUNCIL MEMBER DE LA FUENTE  
10 JAN 11 AM 11:12

**OAKLAND CITY COUNCIL**  
**ORDINANCE NO. 12987 C.M.S.**

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**AN ORDINANCE EXPANDING AND MAKING PERMANENT THE MILLS ACT PROPERTY TAX ABATEMENT PROGRAM FOR QUALIFIED HISTORIC PROPERTIES WHICH WAS ESTABLISHED AS AT TWO-YEAR PILOT PROGRAM VIA ORDINANCE NO. 12784 C.M.S.**

**WHEREAS**, the General Plan Historic Preservation Element Policy 2.6.1 calls for the adoption of a Mills Act contract program, 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**, establishment of a permanent Mills Act Program would meet numerous General Plan Land Use goals and policies, including housing rehabilitation, preservation of community character and identity, sustainability, commercial and corridor revitalization, and image; and

**WHEREAS**, the Landmarks Preservation Advisory Board adopted the establishment of a Mills Act Property Tax Abatement Program for the City of Oakland as a major goal for 2005/06; and

**WHEREAS**, the City of Oakland has a wealth of historic buildings and neighborhoods matched by few other California cities; and

**WHEREAS**, the City Council adopted a two-year pilot Mills Act Property Tax Abatement Program for Qualified Historic Properties in 2007 via Ordinance No. 12784 C.M.S.; and

**WHEREAS**, the two-year pilot program has successfully been implemented, with applications submitted representing geographic diversity within the City, and with applications submitted that are within both the range of the limit on the number of contracts and the limit of losses on Property Tax revenues, with the exception of large commercial properties; and

**WHEREAS**, the two-year pilot program demonstrated the need to expand the limits of

of losses of Property Taxes in the Central Business District to include these large commercial properties in the Program, to provide an incentive for rehabilitation of Central Business District historic properties, which benefit both the property owner with a potential tax reduction and the City with a potential Tax Revenue increase; and

**WHEREAS**, the establishment of a permanent and expanded Mills Act Program for the City of Oakland could affect historic properties city-wide and has the potential to be a catalyst for further revitalization and reinvestment of its distinct and diverse neighborhoods, including the Central Business District, and its strong historical character; and

**WHEREAS**, staff has solicited direction from the historic community and in-house City stakeholders, including the Landmarks Preservation Advisory Board, the Oakland Heritage Alliance, interested Developers and the City Redevelopment Agency, in order to create an inclusive program that responds to a variety of Oakland concerns; and

**WHEREAS**, the Landmarks Preservation Advisory Board and the Planning Commission have strongly supported the goals to expand and make permanent the Mills Act Tax Abatement Program; **NOW, THEREFORE**,

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council finds and determines that an expanded and permanent Mills Act Program will implement the General Plan Historic Preservation Element, provide an incentive for historic property maintenance, preservation and/or rehabilitation and thereby act as a catalyst for revitalization citywide, thus promoting the health, safety and welfare and furthering numerous general plan policies and objectives.

**SECTION 2.** The City Council hereby adopts an expanded and permanent Mills Act Program, as detailed in the December 1, 2009 City Council Agenda Report. There shall be a limit of the program impact on City revenues limited to \$25,000/year, on Redevelopment revenues to \$25,000/year in any single redevelopment area with a cumulative limit of \$250,000/year for all redevelopment areas with the exception of the Central Business District. In the Central Business District, there shall be a limit of the program impact on Redevelopment revenues to \$100,000/building/year with a cumulative limit of \$250,000/year.

Additionally, any Mills Act Program property applicant, whose estimated Property Tax loss exceeds the above limits, may request special consideration by the City Council.

The Landmarks Preservation Advisory Board shall review and consider all Mills Act contracts, which shall be in substantial conformance to the Model Mills Act Agreement (**Exhibit A**), and shall forward its recommendations to the City Council. Staff shall present a report analyzing the cumulative fiscal effects of all existing Mills Act contracts

prior to Council consideration of additional Mills Act contracts. If the City Council approves any Mills Act contracts, it shall do so by resolution.

**SECTION 3.** The City Council finds and determines that the requirements of the California Environmental Quality Act of 1970 (CEQA), the CEQA Guidelines, and the provisions of the Environmental Review Regulations of the City of Oakland have been met, and the actions authorized by this Ordinance are categorically exempt from CEQA under CEQA Guidelines Section 15331: Historical Resource Restoration/Rehabilitation.

**SECTION 4.** The City Council authorizes staff to take any and all steps necessary to implement the Mills Act Pilot Program consistent with this ordinance.

IN COUNCIL, OAKLAND, CALIFORNIA, JAN - 5 2010

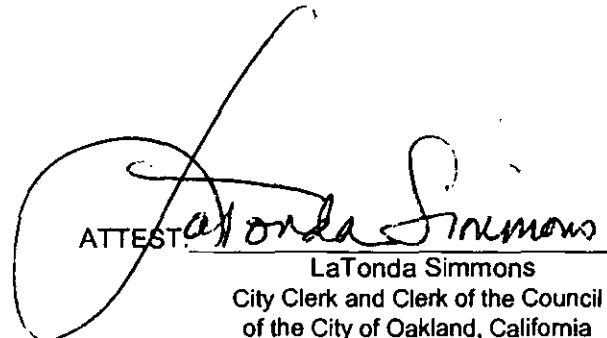
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER - 8

NOES- 0

ABSENT- 0

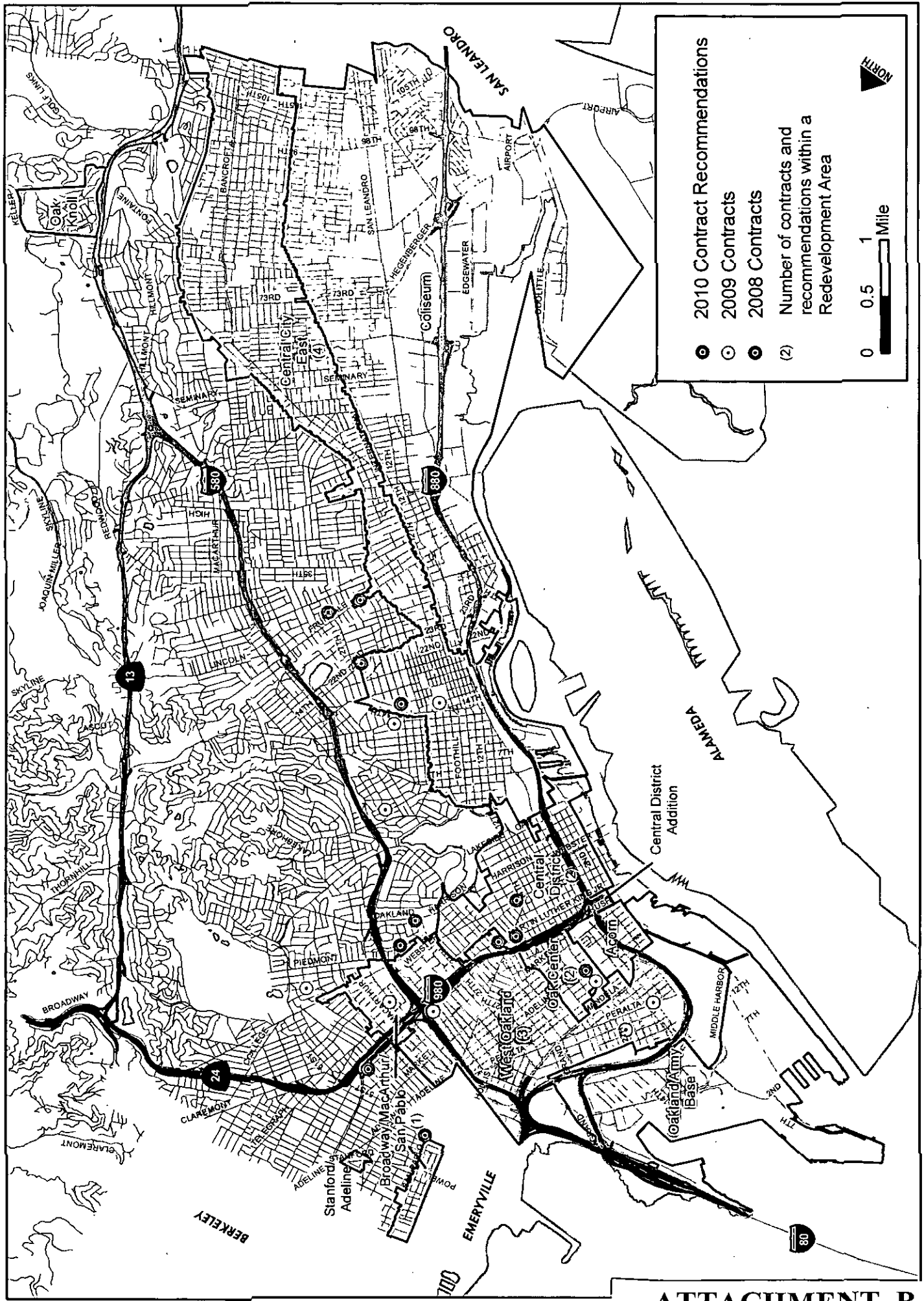
ABSTENTION- 0

ATTEST:   
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

Introduction Date: DEC - 8 2009

DATE OF ATTESTATION: 1 - 7 - 2010





# ATTACHMENT B



*Mark P. Wald*

City Attorney

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2010 NOV -4 PM 1:03

# OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**RESOLUTION APPROVING FIVE (5) MILLS ACT CONTRACTS BETWEEN THE CITY OF OAKLAND AND THE PROPERTIES AT 2801 HARRISON STREET (ESTIMATED - \$665/YEAR PROPERTY TAX REDUCTION), 1081 53<sup>rd</sup> STREET (ESTIMATED - \$644/YEAR PROPERTY TAX REDUCTION), 1926 MARTIN LUTHER KING JR. WAY (ESTIMATED - \$448/YEAR PROPERTY TAX REDUCTION), 2651 22<sup>nd</sup> AVENUE (ESTIMATED - \$1,502/YEAR PROPERTY TAX REDUCTION), AND 1615 BROADWAY (ESTIMATED - \$21,762/YEAR PROPERTY TAX REDUCTION), PURSUANT TO ORDINANCE NO. 12987 C.M.S., TO PROVIDE THESE OWNERS WITH PROPERTY TAX REDUCTIONS IN EXCHANGE FOR THEIR AGREEMENT TO REPAIR AND MAINTAIN THEIR HISTORIC PROPERTY IN ACCORDANCE WITH SUBMITTED WORK PROGRAMS.**

**WHEREAS**, the General Plan Historic Preservation Element Policy 2.6.1 calls for the adoption of a Mills Act contract program 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**, the Oakland City Council adopted a permanent Mills Act Property Tax Abatement Program for qualified historic properties on January 5, 2010, via Ordinance No. 12987 C.M.S; and

**WHEREAS**, the implementation of the Mills Act Program will meet numerous General Plan Land Use goals and policies, including housing rehabilitation, preservation of community character and identity, sustainability, commercial and corridor revitalization, and image; and

**WHEREAS**, the City has received Mills Act contract applications from qualified historic properties throughout the City, with accompanying work programs that will maintain and prevent deterioration of the property, revitalize historic properties, engender pride of neighborhood and community, act as a catalyst for neighborhood revitalization; and

**WHEREAS**, at a duly noticed meeting, the Landmarks Preservation Advisory Board on August 9, 2010 and September 13, 2010 recommended the five applications, as outlined above, to the City Council, for contract approval for the 2010 Mills Act Program; and

**WHEREAS**, at a duly noticed meeting, the Landmarks Preservation Advisory Board's five Mills

Act contract recommendations were presented to the Planning Commission as a Director's Report on October 6, 2010; now, therefore be it

**RESOLVED:** That, the City Administrator, or his designee, is hereby authorized to enter into Mills Act contracts, subject to review and approval of the City Attorney, in substantial conformity with the previously approved model Mills Act contract, with the following properties and to take whatever actions are necessary to implement the previously approved Mills Act Program consistent with this resolution:

2801 HARRISON STREET  
1081 53<sup>RD</sup> STREET  
1926 MARTIN LUTHER KING JR. WAY  
2651 22<sup>ND</sup> AVENUE  
1615 BROADWAY

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California