

2006 NOV 16 PM 4:25

CITY OF OAKLAND

Agenda Report

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: November 28, 2006

RE: **Joint City And Oakland Redevelopment Agency Public Hearing For**
(A) City Ordinance Adopting A Two-Year Pilot Mills Act Property Tax
Abatement Program For Qualified Historic Properties, And Making Related
Amendments To The City's Master Fee Schedule
(B) City Resolution Amending The Historic Preservation Element Of The
General Plan To Clarify The Definition Of Qualified Historic Properties For Mills Act
Agreements To Include Heritage Properties And To Waive Design Review Fees For
Properties That Are In A Mills Act Agreement
C) Agency Resolution Allocating \$3,500 Of West Oakland Redevelopment Plan
Funds To Serve As Matching Funds For A Johanna Favrot Fund For Historic
Preservation Matching Fund Grant Through The National Trust For Historic
Preservation To Fund An Economic Analysis Of The Mills Act Program

SUMMARY

The Community and Economic Development Agency is requesting adoption of a Mills Act Pilot Program for the City of Oakland. The Mills Act 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. Adoption of a Mills Act Program would implement Oakland's General Plan Historic Preservation Element (HPE) Policy 2.6.1 to Adopt a Mills Act program. The HPE calls for development of preservation incentives and regulations that enhance economic feasibility for preservation, and specifically refers to the Mills Act as one of these incentives.

The City was awarded a matching grant from the National Trust for Historic Preservation to assist the City in developing a Mills Act Program by providing consultation fees for economic analysis that would inform the public and individual property owners, as well as provide a basis for the City to

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understand the potential implications in tax revenue receipts to the City. The Landmarks Preservation Advisory Board (LPAB, Board) adopted the establishment of a Mills Act Property Tax Abatement Program for the City of Oakland as a major goal for 2005/06. Input from the Redevelopment Agency, Finance and Management Agency, the LPAB and Oakland Heritage Alliance has informed and structured the proposed pilot program.

Adoption of a Mills Act Program, as proposed, would require a General Plan Amendment to Historic Preservation Element Policy 2.6 in order to expand the list of eligible properties and to provide for design review fee waivers for all properties participating in the Mills Act Program. An Amendment to the Master Fee Schedule to establish a Mills Act Program application fee, a Mills Act Program inspection fee, and to waive design review fees for Mills Act Program participants would also be required.

The LPAB and Planning Commission held a Public Hearing on February 27, 2006 and April 5, 2006 respectively (Planning Commission Report – Attachment C). Three citizens, including a single-family home owner and a developer commented in support of the program. Both the LPAB and the Planning Commission unanimously directed staff to forward the two-year Mills Act Property Tax Abatement Program for Qualified Historic Properties and Model Agreement to the City Council for a public hearing, with a recommendation to City Council to:

- a) amend the General Plan, Historic Preservation Element (as outlined in this report);
- b) amend the Fee Schedule to add the Mills Act Program Application Fee of \$400, the Mills Act Program Inspection Fee of \$100/inspection, and a fee waiver of design review fees for Mills Act Program participants;
- c) adopt an Ordinance establishing a two-year pilot Mills Act Property Tax Abatement Program for Qualified Historic Properties, pursuant to Section 50280-90 of the California Government Code and Section 439.2 of the California Revenue and Taxation Code (Attachment A);
- d) approve the Model Mills Act Agreement (Exhibit A of the proposed ordinance); and
- e) direct staff to implement the two-year pilot Mills Act Property Tax Abatement Program.

FISCAL IMPACT

Two methods have been used by other cities to cap revenue losses to cities: 1) limiting the number of contracts per year; or 2) limiting the dollar amount of tax revenue losses per year (estimated).

The City is proposing to do both during the Pilot Program. Rollovers of both applications and fiscal impacts shall be allowed, provided the number of applications does not exceed 30 and the total fiscal impact does not exceed \$50,000 in property tax revenue (\$500,000 Redevelopment property tax revenue). As outlined below, the program would result in a small loss of revenue, known in advance, that could be factored in the budget planning process.

Limit on Number of Contracts

The two-year pilot program proposes to limit the number of contracts to 10 in the first year and 20 in

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the second year.

Limits on Property Tax Revenue Loss

The pilot program's impact on City property tax revenues shall be limited to \$25,000/year or \$50,000 cumulatively for the two-year pilot program. A \$25,000 tax loss amounts to 0.03% of the City's annual tax revenues, which total \$85 million. On the completion of the pilot program, this impact will continue annually until a contract is terminated, either by the property owner or the City.

Limits on Property Tax Revenue Loss – Redevelopment Areas

Property tax impacts of the Mills Act are greater in redevelopment areas since a larger proportion of tax revenue goes to the Redevelopment Agency. The pilot program impact on the Redevelopment Agency's gross property tax revenues shall be limited to \$250,000/year or \$500,000 cumulatively for the two-year pilot program, with additional limits of \$25,000/year or \$50,000 cumulatively on any single redevelopment area. A \$250,000 tax loss would result in an annual loss of 0.34% of the gross annual redevelopment tax revenues, which total \$72.9 million. On the completion of the pilot program, this impact will continue annually until a contract is terminated, either by the property owner or the City.

Analysis

Economic & Planning Systems (EPS), a land use economics consulting firm, has assisted the City with the analysis of the financial and fiscal implications of a Mills Act Program (Please see Attachment B). This analysis helps to estimate the property tax savings for properties with different characteristics and to understand the potential implications in tax revenue receipts to the City.

Funding for the Mills Act is a Mitigation Measure for both the West Oakland Redevelopment Plan Environmental Impact Report (EIR) and the Central City East Redevelopment Plan EIR. The Project Area Committees have already approved the Mitigation Measure as part of the EIRs and the adopted Redevelopment plans.

Case Study

Potential property tax revenue losses as a result of a Mills Act program should be understood in the larger context of the City's tax base. Oakland generates total property tax revenues of roughly \$313 million, of which approximately \$85 million goes to the City. Savings may be significant for the individual property owner; however, even with substantial participation, the loss to the City is anticipated to be an extremely small portion of total property tax revenues.

For example, the EPS report sample of a 4,000 square foot residential property with an assessed value of \$800,000 might be expected to experience a 45 percent decrease in property taxes under a Mills Act

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Agreement, about \$1,000 of which represents the City's share (this example is analyzed below for both property tax revenue in a non-redevelopment area and a redevelopment area). This savings is required by the Mills Act contract to be spent on maintaining, restoring and rehabilitating the property. Ten similar properties that participate in the Mills Act program, would represent a reduction to the City's property tax revenues by about \$10,000 annually. A \$10,000 tax loss amounts to 0.01% of the annual tax revenues, which total \$85 million

Property tax impacts of the Mills Act are greater in redevelopment areas since a larger proportion of tax revenue goes to the Redevelopment Agency. In redevelopment areas, 80% of the total property tax is collected by the Redevelopment Agency (27.28% of the total property tax is collected by the City in non-redevelopment areas).

For the same 10 single family residences analyzed above, which would represent a reduction to the City's property tax revenues by about \$10,000 annually, the revenue loss in a redevelopment area would be approximately \$30,000 annually. Annual redevelopment tax revenues total \$72.9 million, so a \$30,000 Redevelopment tax loss amounts to 0.04%.

Market Value Approach

Assessed Value	\$800,000
Total Property Tax - 1%	\$ 8,000
Redevelopment Agency Share of Property Tax – 80% (\$8,000) (If property is located in Redevelopment Area)	\$ 6,400
City Share of Property Tax – 27.28% (\$8,000) (If property is not located in Redevelopment Area)	\$ 2,182

Mills Act (Income Value Approach)

Valuation	\$439,416
Total Property Tax - 1%	\$ 4,394
Redevelopment Agency – 80% (\$4,394) (If property is located in Redevelopment Area)	\$ 3,512
City Share of Property Tax – 27.28% (\$4,394) (If property is not located in Redevelopment Area)	\$ 1,199

LOSS Due to Mills Act in redevelopment area = (\$2,888) [\$6,400 - \$3,512]

LOSS Due to Mills Act in non-redevelopment area = (\$ 983) [\$2,182 - \$1,199]

If all of the projects are in one or two concentrated redevelopment areas, this could have a significant

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impact on the affected redevelopment area. To control this impact, and since implementing the Mills Act is a Mitigation Measure for both the West Oakland Redevelopment Plan and the Central City East Redevelopment Plan, the pilot program implementation will pursue a minimum of 20% of the 30 Mills Act Contracts (six contracts) from the Central City East Redevelopment Area and a minimum of 20% of the 30 Mills Act Contracts (six contracts) from the West Oakland Redevelopment Area.

It should also be noted that the Mills Act will further redevelopment goals by requiring property rehabilitation and by encouraging property rehabilitation on non-Mills Act properties. This non-Mills Act revitalization would increase property values which in turn will increase tax revenues. In redevelopment areas, the Mills Act program would indirectly increase neighborhood property values, providing increased tax revenue which would be returned to the redevelopment agency.

Although commercial property tax revenues may be greater than residential tax revenues, commercial properties are expected to experience a much smaller percentage savings of about 10 to 20 percent under the Mills Act, since the reduction is based on a different formula. Please refer to Attachment B for further details.

Agency Matching Funds

Staff is requesting to re-allocate \$3,500 of West Oakland Redevelopment Funds to serve as a local match for a Johanna Favrot Fund for Historic Preservation matching fund grant through the National Trust for Historic Preservation to fund an Economic Analysis of the Mills Act Program, the EPS report (Attachment B). These funds will be allocated from Redevelopment Planning – West Oakland/ Coliseum Admin Fund(9101), West Oakland Base Reuse Organization (88679), Redevelopment Plan – West Oakland Project (P37650).

Master Fee Schedule

The adoption of a Mills Act Ordinance will require a change to the Master Fee Schedule. Staff is recommending an application fee of \$400 and an inspection fee of \$100 per inspection. These fees will be deposited to Development Service Fund (2415), City Planning - Other organization (88229). Besides, the design review fees for Heritage properties that are in a Mills Act agreement shall be waived. A maximum loss of \$5,370 in design review revenues could be incurred in the 2-year pilot program period, if all the Mills Act properties are Heritage properties. All properties on the City's Local Register of Historic Resources are already exempt from design review fees. It is anticipated that Mills Act properties will include both Local Register properties and Heritage properties; therefore the \$5,300 potential loss is a high estimate of the potential loss.

Although time for processing a Mills Act application is expected to exceed the amount of time the proposed fees will cover, staff recommends that the fees be kept relatively low in order to encourage applications during this Pilot Program. Cities with high Mills Act application fees have not been successful. Staff is recommending that time be tracked during the Pilot Program, and that the Fee be

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reevaluated based on staff's actual time during the Pilot Program.

PROJECT DESCRIPTION

The Mills Act 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.¹ 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.

Model Mills Act Agreement

The Model Mills Act Agreement's (Agreement) major provisions and concepts are outlined below (Please see Exhibit A of the proposed ordinance).

Participation: Participation on the part of the property owner is completely voluntary.

Agreement: The Agreement is between the City and the owner of a designated historic structure.

Tax Assessment: Upon receipt of an executed Agreement, the County Tax Assessor is directed by the State to re-assess the value of the property, resulting in a reduction of property tax for the owner, which will vary depending on a number of factors.

Term: The minimum term of an Agreement is ten years. An additional year is added at each anniversary date of the Agreement, unless the owner or the local government gives written notice of non-renewal by specified deadlines in an agreement year. If proper notice of non-renewal is given, the agreement will cease to be effective 10 years hence. However, see Cancellation below.

Preservation/Restoration/Rehabilitation/Maintenance Requirement: The Agreement requires that the owner preserve/rehabilitate and maintain cultural, historical and architectural characteristics of the listed historic property, as approved by the LPAB. Any work must be done in conformance with the

¹ 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, Sunnyvale. There are also programs in Los Angeles and San Diego.

standards administered by the State of California's Office of Historic Preservation, the State Historical Building Code, and the Secretary of the Interior's Standards. At minimum, the Mills Act requires the owner to prevent deterioration of the property. The Agreement provisions would include language defining maintenance requirements, as outlined below:

Property Maintenance (Exhibit D of the Mills Act Agreement): The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: Fences, roofs, doors, walls, and windows, broken windows, peeling exterior paint, broken structures;
2. Graffiti;
3. Incomplete exterior construction where no building inspections have been requested for six or more months, or for work which does not require a building permit, where there has been no significant progress for 90 days.

Required Inspection: The Agreement provides for periodic inspections, as necessary, to determine the owner's compliance with terms of the agreement.

Applicability to New Owners: Both the benefits and the burdens of the Agreement transfer to new owners of a property that is subject to an Agreement. The Mills Act requires the Agreements be recorded with the County Recorder. This will notify any prospective purchaser of a Mills Act property of the Agreement's existence.

Cancellation of Mills Act Agreements: The City Council may, after notice and hearing, cancel an Agreement if the Council determines that the owner has breached any of the above or other agreement terms or if the property no longer meets the criteria for listing on an official register. In the event of a cancellation, the owner is assessed a penalty of 12.5% of the property's market value at the time. The Mills Act does not contain a provision that would allow an owner to cancel an Agreement other than by giving ten years notice of non-renewal (Term above).

The City of Oakland will also include a provision in the Agreement that allows for the cancellation of an Agreement in the event a property is destroyed through no fault of the owner. To the extent State law allows, the cancellation of agreements in this instance would occur without payment of the cancellation fee.

The City of Oakland will also include a provision in the Agreement that allows the owner to modify the work program in case the owner undergoes a catastrophic event, such as terminal illness, or loss of job for an extended period of time, minimum of six months.

Enforcement: The Mills Act allows the City to obtain a court order to compel the actual performance of each of the obligations contained in the Agreement. Thus, even though an owner may wish to default on the Agreement, he or she may be compelled to comply with the specific stipulations of the Agreement for its entire term.

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KEY ISSUES AND IMPACTS

General Plan Amendments

Adoption of a Mills Act Ordinance as proposed would require a General Plan Historic Preservation Element (HPE) Amendment.

Policy 2.6 of the HPE currently excludes Heritage Properties² from eligibility for the Mills Act Program, and from fee waivers or reductions for City permits, as Landmarks and Preservation districts currently receive.

Oakland has a wealth of individual historic buildings and neighborhoods matched by few other California cities. Some of these have been designated as City of Oakland Landmarks, but few historic neighborhoods have become designated Historic Districts. Historic District designation is not a process that is easily achieved; it requires a significant level of neighborhood organization, time and commitment. However, most of the properties would be individually eligible for historic designation as Heritage Properties. These properties could qualify for the Mills Act Program as Heritage Properties without waiting for the entire neighborhood to become a designated historic district. Over time, these individual Heritage Property designations, along with Mills Act participation, will lead to reinvestment and a strong sense of community in each neighborhood, and in time, neighborhood organizations seeking Historic District designation. The following Table outlines the difference in numbers.

Currently qualified for Mills Act Agreement [Designated Historic Properties (DHPs)]	1,140 Properties
Qualify with Proposed General Plan Amendment (Local Register)	2,500 Properties
Potentially Qualified [Potential Designated Historic Properties (PDHPs)]	17,000 Properties

A Mill's Act work program will require Design Review by the Landmarks Preservation Advisory Board in order to determine that any proposed maintenance or restoration/rehabilitation work is in compliance with the Secretary of Interior's Standards. Staff is recommending an HPE Amendment so that Heritage Properties would qualify for this Design Review fee waiver, as Landmarks and Historic Districts currently enjoy.

² Properties which definitively warrant preservation but which are not Landmarks or Preservation Districts. A property is eligible for Heritage Property designation if it either: (a) has received an existing or contingency rating of "A" (Highest Importance), "B" (Major Importance), or "C" (Secondary Importance) according to the methodology of the Intensive Survey; (b) has received an existing or contingency rating of "A" or "B" from the Reconnaissance Survey; or "C" contributes or potentially contributes to any area potentially eligible for Preservation District designation.

Master Fee Schedule Amendments

The adoption of a Mills Act Ordinance will require a change to the Master Fee Schedule. Staff is recommending an application fee of \$400 and an inspection fee of \$100.

The proposed application fee is equivalent to approximately four and one-half hours of time, based on current Administrative Pre-application fees. The application process would require a report and design review hearing before the LPAB, notice to the Planning Commission and City Council authorization to the City Administrator to execute the Mills Act Agreement. Although time for this process is expected to exceed four and one-half hours, staff recommends that the fee be kept relatively low in order to encourage applications during this Pilot Program. Staff is recommending that time be tracked during the Pilot Program, and that the Fee be reevaluated based on staff's actual time.

The proposed inspection fee would be used to conduct periodic examinations of the property to determine the owner's compliance as required by the Mills Act. The proposed fee is based on CEDA's building inspection fee for inspections that exceed those rolled into the Building Permit fee. Each additional jobsite visit fee is \$95.25.

Appropriation of Matching Grant Funds

In January 2004, the City Council adopted a Resolution to apply for, accept if awarded and appropriate matching funds for the Johanna Favrot Fund for Historic Preservation. The designated matching funds are available from the West Oakland Redevelopment Plan and the Central City East Redevelopment Plan. The Agency Resolution to appropriate these funds is attached.

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.

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Environmental

Historic preservation or rehabilitation is sustainability on a grand scale. It saves a tremendous amount of materials, and other materials that would go into a replacement building.

Social Equity

Historic preservation or rehabilitation will assist in the revitalization of Oakland's historic buildings and neighborhoods citywide. Although applicants may 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 properties will require upgrades for handicapped accessibility.

RECOMMENDATIONS

Staff recommends adoption of the Ordinance establishing a two-year Mills Act Property Tax Abatement Program for qualified historic properties, along with the accompanying HPE General Plan Amendments, Master Fee Schedule Amendments, and Agency Resolution appropriating matching funds for the Johanna Favrot Fund for Historic Preservation Grant awarded to the City.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the Council accept this report for the Pilot Mills Act Program, and:

- 1) Adopt the City Ordinance establishing a two-year pilot Mills Act Property Tax Abatement Program for Qualified Historic Properties, making related amendments to the City's Master Fee Schedule;
- 2) Adopt the City Resolution amending the Historic Preservation Element of the General Plan to clarify the definition of Qualified Historic Properties for Mills Act Agreements to include Heritage Properties and to waive design review fees for Heritage properties that are in a Mills Act Agreement; and

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- 3) Adopt the Agency Resolution appropriating \$3,500 of West Oakland Redevelopment Plan Funds for a Johanna Favrot Fund for Historic Preservation matching fund grant through the National Trust for Historic Preservation to fund an Economic Analysis of the Mills Act Program.

Respectfully submitted,

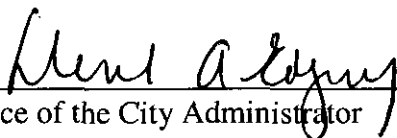


CLAUDIA CAPPIO
Development Director
Community and Economic Development Agency

Prepared by:

Joann Pavlinec
Planner III, Historic Preservation and
Major Projects

APPROVED FOR FORWARDING TO THE
FINANCE AND MANAGEMENT AND
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEES:


Office of the City Administrator

Attachments:

- A. Section 50280-90 of the California Government Code and Section 439.2 of the California Revenue and Taxation Code
- B. Economic & Planning Systems Memorandum dated September 21, 2005
- C. Staff Report to the Planning Commission dated April 5, 2006 (Attachments include General Plan Historic Preservation Policy 2.6: Preservation Incentives and Policy 3.3: Designated Historic Property Status for Certain City-Assisted Properties)

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**CITY OF OAKLAND
NOTICE OF CITY AND AGENCY JOINT PUBLIC HEARING**

Notice is hereby given that the Oakland City Council will hold a public hearing to consider adopting a Mills Act Program, including :

(A) CITY ORDINANCE ADOPTING A TWO-YEAR PILOT MILLS ACT PROPERTY TAX ABATEMENT PROGRAM FOR QUALIFIED HISTORIC PROPERTIES, AND MAKING RELATED AMENDMENTS TO THE CITY'S MASTER FEE SCHEDULE

(B) CITY RESOLUTION AMENDING THE HISTORIC PRESERVATION ELEMENT OF THE GENERAL PLAN TO CLARIFY THE DEFINITION OF QUALIFIED HISTORIC PROPERTIES FOR MILLS ACT AGREEMENTS TO INCLUDE HERITAGE PROPERTIES AND TO WAIVE DESIGN REVIEW FEES FOR HERITAGE PROPERTIES THAT ARE IN A MILLS ACT AGREEMENT

(C) AGENCY RESOLUTION ALLOCATING \$3,500 OF WEST OAKLAND REDEVELOPMENT PLAN FUNDS TO SERVE AS MATCHING FUNDS FOR A JOHANNA FAVROT FUND FOR HISTORIC PRESERVATION MATCHING FUND GRANT THROUGH THE NATIONAL TRUST FOR HISTORIC PRESERVATION TO FUND AN ECONOMIC ANALYSIS OF THE MILLS ACT PROGRAM

The City ordinance (a) adopts a two-year pilot Mills Act Property Tax Abatement Program, which allows reductions of property tax assessments for eligible historic properties if the owner signs an agreement with the city to preserve and maintain the historic characteristics of the property; and (b) amends the city's Master Fee Schedule to include a Mills Act Application fee of \$400, a Mills Act Inspection fee of \$100/inspection, and to waive Design Review fees for Heritage properties that are in a Mills Act Agreement.

The City resolution amends the city's Historic Preservation Element of the Oakland General to include Heritage Properties as eligible for the Mills Act Program and to waive design review fees for Heritage properties that are in a Mills Act Agreement.

The Agency resolution allocates matching funds for an Historic Preservation Grant to the City from the National Trust for Historic Preservation for an economic analysis of the financial and fiscal implications of a Mills Act Program.

The City Council is scheduled to hold a public hearing on the proposed Mills Act Program on **Tuesday, December 5, 2006, at 7:00 p.m.** in the City Council Chambers of City Hall located at One Frank H. Ogawa Plaza in Downtown Oakland. All interested person are invited to attend and be heard.

If you challenge the proposed Mills Act Program in court, you may be limited to raising only those issues you or someone else raised at the public hearings described in this notice, or in written correspondence delivered to the Community and Economic Development Agency prior to the public hearing.

For further information, please contact the case planner, Joann Pavlinec, at 510-238-6344 or at jpavlinec@oaklandnet.com. Written comments may be addressed to the case planner at the following address: City of Oakland, Community and Economic Development Agency, Planning and Zoning Division, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612.

M.P.W.

NOTICE & DIGEST

ORDINANCE ADOPTING A TWO-YEAR PILOT MILLS ACT PROPERTY TAX ABATEMENT PROGRAM FOR QUALIFIED HISTORIC PROPERTIES, AND MAKING RELATED AMENDMENTS TO THE CITY'S MASTER FEE SCHEDULE, AND ALLOCATING MATCHING FUNDS FOR A GRANT TO THE CITY RECEIVED FROM THE NATIONAL TRUST FOR HISTORIC PRESERVATION TO FUND AN ECONOMIC ANALYSIS OF THE MILLS ACT PROGRAM

This ordinance (a) adopts a two-year pilot Mills Act Property Tax Abatement Program, which allows reductions of property tax assessments for eligible historic properties if the owner signs an agreement with the city to preserve and maintain the historic characteristics of the property; and (b) amends the city's Master Fee Schedule to include a Mills Act Application fee of \$400, a Mills Act Inspection fee of \$100/inspection, and to waive Design Review fees for Heritage properties that are in a Mills Act Agreement.

Mills Act
CALIFORNIA CODES - 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 the periodic examinations of the interior and exterior of the premises by the assessor, the Department of Parks and Recreation, and the State Board of Equalization as may be necessary 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 provide written notice of the contract to the Office of Historic Preservation 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 not to exceed the reasonable cost of administering this program.

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. 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.

ATTACHMENT A

Mills Act
CALIFORNIA CODES - GOVERNMENT CODE
SECTION 50280-50290

- (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. The legislative body may cancel a contract if it 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 may also cancel a contract if it determines that the owner has failed to restore or rehabilitate the property in the manner specified in the contract.

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 121/2 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, the county, city, or any landowner 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.

California Revenue and Taxation Code, Article 1.9, Sections 439 – 439.4

439. Historical Property Restrictions; enforceably restricted property.

For the purposes of this article and within the meaning of Section 8 of Article XIII of the Constitution, property is "enforceably restricted" if it is subject to an historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

439.1. Historical Property; definitions.

For purposes of this article "restricted historical property" means qualified historical property, as defined in Section 50280.1 of the Government Code, that is subject to a historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. For purposes of this section, "qualified historical property" includes qualified historical improvements and any land on which the qualified historical improvements are situated, as specified in the historical property contract. If the historical property contract does not specify the land that is to be included, "qualified historical property" includes only that area of reasonable size that is used as a site for the historical improvements.

439.2. Historical Property; valuation.

When valuing enforceably restricted historical property, the county assessor shall not consider sales data on similar property, whether or not enforceably restricted, and shall value that restricted historical property by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available, the income shall be the fair rent that can be imputed to the restricted historical property being valued based upon rent actually received for the property by the owner and upon typical rentals received in the area for similar property in similar use where the owner pays the property tax. When the restricted historical property being valued is actually encumbered by a lease, any cash rent or its equivalent considered in determining the fair rent of the property shall be the amount for which the property would be expected to rent were the rental payment to be renegotiated in the light of current conditions, including applicable provisions under which the property is enforceably restricted.

(2) Where sufficient rental information is not available, the income shall be that which the restricted historical property being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the property is enforceably restricted.

(3) If the parties to an instrument that enforceably restricts the property stipulate therein an amount that constitutes the minimum annual income to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated. For purposes of this section, income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, that the property can be expected to

yield to an owner-operator annually on the average from any use of the property permitted under the terms by which the property is enforceably restricted. Expenditures shall be any outlay or average annual allocation of money or money's worth that can be fairly charged against the revenue expected to be received during the period used in computing the revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the property, property taxes, corporation income taxes, or corporation franchise taxes based on income.

(b) The capitalization rate to be used in valuing owner-occupied single family dwellings pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board, rounded to the nearest 1/4 percent.

(2) A historical property risk component of 4 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(c) The capitalization rate to be used in valuing all other restricted historical property pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board, rounded to the nearest 1/4 percent.

(2) A historical property risk component of 2 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(d) Unless a party to an instrument that creates an enforceable restriction expressly prohibits the valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

(e) The value of the restricted historical property shall be the quotient of the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b) or (c).

(f) The ratio prescribed in Section 401 shall be applied to the value of the property determined in subdivision (d) to obtain its assessed value.

439.3. Historical Property; notice of nonrenewal.

Notwithstanding any provision of Section 439.2 to the contrary, if either the county or city or the owner of restricted historical property subject to contract has served notice of nonrenewal as provided in Section 50282 of the Government Code, the county assessor shall value that restricted historical property as provided in this section.

(a) Following the hearing conducted pursuant to Section 50285 of the Government Code, subdivision (b) shall apply until the termination of the period for which the restricted historical property is enforceably restricted.

(b) The board or assessor in each year until the termination of the period for which the property is enforceably restricted shall do all of the following:

(1) Determine the full cash value of the property pursuant to Section 110.1. If the property is not subject to Section 110.1 when the restriction expires, the value shall be determined pursuant to Section 110 as if the property were free of contractual restriction. If the property will be subject to a use for which this chapter provides a special restricted assessment, the value of the property shall be determined as if it were subject to the new restriction.

(2) Determine the value of the property by the capitalization of income method as provided in Section 439.2 and without regard to the fact that a notice of nonrenewal or cancellation has occurred.

(3) Subtract the value determined in paragraph (2) of this subdivision by capitalization of income from the full cash value determined in paragraph (1).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 439.2, discount the amount obtained in paragraph (3) for the number of years remaining until the termination of the period for which the property is enforceably restricted.

(5) Determine the value of the property by adding the value determined by the capitalization of income method as provided in paragraph (2) and the value obtained in paragraph (4).

(6) Apply the ratios prescribed in Section 401 to the value of the property determined in paragraph (5) to obtain its assessed value.

439.4. Historical Property; recordation.

No property shall be valued pursuant to this article unless an enforceable restriction meeting the requirements of Section 439 is signed, accepted and recorded on or before the lien date for the fiscal year in which the valuation would apply.



Economic &
Planning Systems

Real Estate Economics

Regional Economics

Public Finance

Land Use Policy

MEMORANDUM

To: Joann Pavlinec and Betty Marvin
From: Richard Berkson and Rebecca Freeland
Subject: Oakland Mills Act Analysis, EPS #15081
Date: September 21, 2005

Economic & Planning Systems, Inc. (EPS), has been retained by the City of Oakland to analyze the financial and fiscal implications of establishing a Mills Act Ordinance, which would allow for property tax reductions to qualifying historical properties in the City. This memorandum provides background on the Mills Act, and describes EPS's findings with illustrative examples. EPS also has evaluated the potential effects on several specific historic properties to indicate the range of potential effects, depending on a number of variables.

BACKGROUND

Passed in 1972, the Mills Act allows participating local governments to enter into contracts with owners of historic properties who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief.

Mills Act properties are assessed using the "income approach" to value. In other words, residential properties are valued based on their rental income, which typically results in a value lower than current market values. However, if a property has not sold for several years and its current assessed value is relatively low by comparison to rental values, then the Mills Act does not offer a benefit. The exception would be in those cases where the owner is investing substantial sums to rehabilitate the property, in which case the re-assessed property value could be greater than the Mills Act valuation.

For commercial properties, the benefit of the Mills Act is much less than for rental properties. Recently sold commercial properties generally will have sold at a price which was based on current rents, similar to the valuation approach provided by the Mills Act; however, the capitalization rate used by the Mills Act results in lower values

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ATTACHMENT B

by comparison to typical capitalization rates, thus producing some benefit. As is the case for residential property, older commercial properties and properties with assessments substantially below market value will not benefit from the Mills Act.

FINDINGS

- *Residential properties with assessed values reflecting current market prices are expected to experience property tax savings of 40 to 50 percent under the Mills Act's income approach to value.*

A sample residential scenario is presented in Table 1. As shown, a 4,000-square foot residential property with an assessed value of \$800,000 (i.e., current market value) might be expected to experience a 45 percent decrease in property taxes under a Mills Act contract using the income approach to value. The specific amount of property tax savings will vary based on the size, location, potential rents, and condition of the property.

- *Commercial properties are expected to experience savings of 10 to 20 percent under the Mills Act's income approach to value.*

Commercial properties may benefit less dramatically from the Mills Act, compared to residential properties. There are two major reasons for this difference. First, the sales price of a residential property is typically greater than its rental value, whereas the market value of commercial properties generally is based on the capitalized value of anticipated rental income.

As a result, the income approach to value under the Mills Act will benefit recently sold commercial properties only to the extent that the Mills Act capitalization rate is higher than the market capitalization rate. In addition, the risk factor component of the Mills Act capitalization rate is 4 percent for residential properties but only 2 percent for commercial properties. A commercial example is presented in Table 2. As shown, projected property tax savings are approximately 16 percent, which are significantly less than the residential example.

- *The Mills Act's income approach to value is not likely to produce a benefit for properties last sold more than two to five years ago.*

Table 3 presents a second scenario, in which the residential property described in Table 1 has not been resold for a number of years. In this situation, the property's assessed value would reflect its last sale price, increased by 2 percent annually under Proposition 13. For a residential property with an assessed value that is approximately 45 percent below market value, the Mills Act income approach to value is not expected to result in decreased property taxes.

(Similarly, if the commercial property described in Table 2 had an assessed value of 15 percent below market value, as shown in Table 4, the income approach to value would not produce a benefit.)

Data from the Office of Federal Housing Enterprise Oversight indicate that housing prices in the Oakland-Fremont-Hayward Metropolitan Statistical Area have increased by 88 percent in the past five years. Based on this figure, properties sold in the past two to five years may have assessed values of 45 percent below market rate or less.

- *Case studies suggest that properties' specific characteristics can produce a wide variety of results under the Mills Act.*

EPS has estimated the impact of the Mills Act on several specific properties suggested by the City as potential candidates for the program. The projected property tax impact of the income valuation approach varies widely depending on property. This variation can be attributed to factors such as sale date, location, condition, size, and recent improvements. In some cases, the property currently is undergoing a re-appraisal because of a recent sale, and/or substantial improvements are planned which are not reflected by available data, but which would change the results as shown. Such factors should be evaluated for individual properties and emphasized in public education about the potential benefits of a Mills Act contract.

- *Potential property tax revenue losses as a result of a Mills Act program should be understood in the larger context of the City's tax base.*

According to the 2004-05 Assessment Roll, Oakland has nearly \$31.3 billion in assessed value, generating total tax revenues of roughly \$313 million, of which approximately \$85 million would go to the City (excluding tax overrides). While savings for individual property owners under the Mills Act may be significant, the loss to the City, even with substantial participation, is likely to be an extremely small portion of total property tax revenues. For example, for every ten properties similar to the example shown on Table 1 that participate in the Mills Act program, the City's property tax revenues would be reduced by about \$10,000 annually (excluding tax overrides).

- *Although the property tax impacts of the Mills Act in redevelopment areas will be borne predominantly by the redevelopment agency, the Mills Act will further redevelopment goals by encouraging property rehabilitation.*

In redevelopment areas, tax increments go to the redevelopment agency rather than being allocated among various agencies and jurisdictions. As a result, for a property in a Redevelopment Agency (RDA), any decrease in property tax

resulting from the Mills Act will be borne primarily by the redevelopment agency and losses will be magnified. For example, for every ten properties similar to the Table 1 example that are located in a redevelopment area, the RDA will lose approximately \$47,000 annually. The actual loss will depend on both the number and value of units; examples of potential Mills Act properties provided by the City suggest that average residential values and resulting property tax losses may be less than the Table 1 example.

However, the redevelopment area will experience a benefit insofar as Mills Act contracts will encourage and help fund the renovation and revitalization of properties within the RDA.

Table 1
Mills Act Property Tax Calculator (Sample Calculation)
Oakland Mills Act Analysis, EPS #15081

Item	Factor	Amount
Market Value Approach		
Assessed Value		\$800,000
Total Property Tax (1)	1.3057%	\$10,446
City Share of Property Tax	27.28% of 1% tax (2)	\$2,182
Mills Act (Income Value Approach)		
Gross Annual Income	\$1.50 / SF/ month 4,000 SF	\$72,000
Annual Expenses (3)	25% of Income	<u>(\$18,000)</u>
Net Income		\$54,000
Capitalization Rate		
Interest (4)	6%	
Risk Component (5)	4%	
Tax Rate (6)	1.3057%	
Amortization (7)	<u>1.7%</u>	
Capitalization Rate, Land	10.96%	
Capitalization Rate, Improvements	12.62%	
Weighted Average Capitalization Rate (8)	12.29%	
Valuation		\$439,416
Total Property Tax	1.3057%	\$5,737
City Share of Property Tax	27.28% of 1% tax (2)	\$1,199
Total Property Tax Increase/ (Decrease) Due to Mills Act		(\$4,708)
City Property Tax Increase/ (Decrease) Due to Mills Act		(\$984)
Percent Increase/ (Decrease) Due to Mills Act		-45%

(1) Total property tax rate is greater than 1 percent due to tax overrides.

(2) Excludes overrides.

(3) Alameda County Assessor's Office assumes approximately 25 percent of income goes to property maintenance and other operating expenses.

(4) 2004-05 State Board of Equalization Mills Act interest rate.

(5) Risk component is 2 percent for commercial properties and 4 percent for residential properties.

(6) Property tax rate is greater than 1 percent due to tax overrides.

(7) Amortizes improvements over 60 years.

(8) Assumes that land comprises 20 percent of value and improvements comprise 80 percent of value. Value of land is not amortized.

Sources: State Board of Equalization, City of Oakland, Economic & Planning Systems.

Table 2
Mills Act Property Tax Calculator (Sample Calculation)
Oakland Mills Act Analysis, EPS #15081

Item	Factor	Amount
Market Value Approach		
Assessed Value		\$1,300,000
Total Property Tax (1)	1.3057%	\$16,974
City Share of Property Tax	27.28% of 1% tax (2)	\$3,546
Mills Act (Income Value Approach)		
Gross Annual Income	\$1.25 / SF/ month 10,000 SF	\$150,000
Annual Expenses (3)	25% of income	<u>(\$37,500)</u>
Net Income		\$112,500
Capitalization Rate		
Interest (4)	6%	
Risk Component (5)	2%	
Tax Rate (6)	1.3057%	
Amortization (7)	<u>1.7%</u>	
Capitalization Rate, Land	8.96%	
Capitalization Rate, Improvements	10.62%	
Weighted Average Capitalization Rate (8)	10.29%	
Valuation		\$1,093,397
Total Property Tax	1.3057%	\$14,276
City Share of Property Tax	27.28% of 1% tax (2)	\$2,982
Total Property Tax Increase/ (Decrease) Due to Mills Act		(\$2,698)
City Property Tax Increase/ (Decrease) Due to Mills Act		(\$2,698)
Percent Increase/ (Decrease) Due to Mills Act		-16%

- (1) Total property tax rate is greater than 1 percent due to tax overrides.
(2) Excludes overrides.
(3) Alameda County Assessor's Office assumes approximately 25 percent of income goes to property maintenance and other operating expenses.
(4) 2004-05 State Board of Equalization Mills Act interest rate.
(5) Risk component is 2 percent for commercial properties and 4 percent for residential properties.
(6) Property tax rate is greater than 1 percent due to tax overrides.
(7) Amortizes improvements over 60 years.
(8) Assumes that land comprises 20 percent of value and improvements comprise 80 percent of value. Value of land is not amortized.

Sources: State Board of Equalization, City of Oakland, Economic & Planning Systems.

Table 3
Mills Act Property Tax Calculator (Sample Calculation)
Oakland Mills Act Analysis, EPS #15081

Item	Factor	Amount
Market Value Approach		
Assessed Value		\$440,000
Total Property Tax (1)	1.3057%	\$5,745
City Share of Property Tax	27.28% of 1% tax (2)	\$1,200
Mills Act (Income Value Approach)		
Gross Annual Income	\$1.50 / SF/ month 4,000 SF	\$72,000
Annual Expenses (3)	25% of income	<u>(\$18,000)</u>
Net Income		\$54,000
Capitalization Rate		
Interest (4)	6%	
Risk Component (5)	4%	
Tax Rate (6)	1.3057%	
Amortization (7)	<u>1.7%</u>	
Capitalization Rate, Land	10.96%	
Capitalization Rate, Improvements	12.62%	
Weighted Average Capitalization Rate (8)	12.29%	
Valuation		\$439,416
Total Property Tax	1.3057%	\$5,737
City Share of Property Tax	27.28% of 1% tax (2)	\$1,199
Total Property Tax Increase/ (Decrease) Due to Mills Act		(\$8)
City Property Tax Increase/ (Decrease) Due to Mills Act		(\$2)
Percent Increase/ (Decrease) Due to Mills Act		0%

- (1) Total property tax rate is greater than 1 percent due to tax overrides.
(2) Excludes overrides.
(3) Alameda County Assessor's Office assumes approximately 25 percent of income goes to property maintenance and other operating expenses.
(4) 2004-05 State Board of Equalization Mills Act interest rate.
(5) Risk component is 2 percent for commercial properties and 4 percent for residential properties.
(6) Property tax rate is greater than 1 percent due to tax overrides.
(7) Amortizes improvements over 60 years.
(8) Assumes that land comprises 20 percent of value and improvements comprise 80 percent of value. Value of land is not amortized.

Sources: State Board of Equalization, City of Oakland, Economic & Planning Systems.

Table 4
Mills Act Property Tax Calculator (Sample Calculation)
Oakland Mills Act Analysis, EPS #15081

Item	Factor	Amount
Market Value Approach		
Assessed Value		\$1,105,000
Total Property Tax (1)	1.3057%	\$14,428
City Share of Property Tax	27.28% of 1% tax (2)	\$3,014
Mills Act (Income Value Approach)		
Gross Annual Income	\$1.25 / SF/ month 10,000 SF	\$150,000
Annual Expenses (3)	25% of income	<u>(\$37,500)</u>
Net Income		\$112,500
Capitalization Rate		
Interest (4)	6%	
Risk Component (5)	2%	
Tax Rate (6)	1.3057%	
Amortization (7)	<u>1.7%</u>	
Capitalization Rate, Land	8.96%	
Capitalization Rate, Improvements	10.62%	
Weighted Average Capitalization Rate (8)	10.29%	
Valuation		\$1,093,397
Total Property Tax	1.3057%	\$14,276
City Share of Property Tax	27.28% of 1% tax (2)	\$2,982
Total Property Tax Increase/ (Decrease) Due to Mills Act		(\$151)
City Property Tax Increase/ (Decrease) Due to Mills Act		(\$32)
Percent Increase/ (Decrease) Due to Mills Act		-1%

(1) Total property tax rate is greater than 1 percent due to tax overrides.

(2) Excludes overrides.

(3) Alameda County Assessor's Office assumes approximately 25 percent of income goes to property maintenance and other operating expenses.

(4) 2004-05 State Board of Equalization Mills Act interest rate.

(5) Risk component is 2 percent for commercial properties and 4 percent for residential properties.

(6) Property tax rate is greater than 1 percent due to tax overrides.

(7) Amortizes improvements over 60 years.

(8) Assumes that land comprises 20 percent of value and improvements comprise 80 percent of value. Value of land is not amortized.

Sources: State Board of Equalization, City of Oakland, Economic & Planning Systems.

Table A
Mills Act Impact on Sample Properties
Oakland Mills Act Analysis, EPS #1408f

Address	Yr Built	SF	Most Recent Sale	05-06 Net Taxable Value	Estimated Rental Income/ Mo.	05-06 Prop. Tax without Mills Act		05-06 Prop. Tax with Mills Act		Mills Act Increase/ (Decrease)		Percent Change
						Total Tax	Tax to City (6) 27.28%	Total Tax	Tax To City (6) 27.28%	Total Property Tax	Property Tax To City	
Residential												
	1907	3,739	2004	\$758,000	\$5,633	\$9,897	\$2,068	\$5,387	\$1,125	(\$4,510)	(\$942)	-46%
	1928	3,508	1995	\$106,278	\$4,602	\$1,388	\$290	\$4,401	\$919	\$3,013	\$629	217%
	1924	4,988	2004	\$1,250,000	\$6,544	\$16,321	\$3,410	\$6,257	\$1,307	(\$10,064)	(\$2,102)	-62%
	1879	662	2004	\$150,000	\$1,500	\$1,959	\$409	\$1,434	\$300	(\$524)	(\$110)	-27%
	1898	4,227	1998	\$234,706	\$2,473	\$3,065	\$640	\$2,365	\$494	(\$700)	(\$146)	-23%
	1917	117,544		\$3,065,168	\$137,528	\$40,022	\$8,361	\$131,509	\$27,473	\$91,487	\$19,112	229%
Commercial												
	1903	50,300	2005	\$6,000,000	\$76,708	\$78,342	\$16,366	\$87,609	\$18,302	\$9,267	\$1,936	12%
	1878	14,407	2003	\$893,574	\$24,025	\$11,667	\$2,437	\$27,439	\$5,732	\$15,772	\$3,295	135%
	1931	26,560	2000	\$992,375	\$22,800	\$12,957	\$2,707	\$26,040	\$5,440	\$13,083	\$2,733	101%
	1923	10,650	2003	\$1,298,799	\$13,313	\$18,958	\$3,543	\$15,204	\$3,176	(\$1,754)	(\$366)	-10%

(1) Unusually low net taxable value.

(2) Latest assessed value is based on warehouse use and does not reflect anticipated conversion to residential units (used to estimate rental income).

(3) Not currently rehabilitated; estimated rental income may be based on planned improvements which are not reflected in latest assessed value.

(4) Estimated rental income based on recent renovation and partial conversion to residential units which may not be reflected in latest assessed value.

(5) Recently rehabilitated; estimated rental income may be based on improvements which are not reflected in latest assessed value.

(6) Excluding overrides.

Sources: City of Oakland Planning Department, Alameda County Assessor's Office, individual brokers, Economic & Planning Systems.

6.	Location:	Citywide
	Proposal:	Adoption of a Citywide two-year pilot Mills Act Property Tax Abatement Program for Qualified Historic Properties
	Recommendation:	<ol style="list-style-type: none"> 1. Receive any testimony from interested citizens; 2. Comment and give staff direction on any Mills Act Program issues; 3. Review the Draft Model Agreement, make recommendations for any modifications and or additions; 4. Direct staff to forward the two-year pilot Mills Act Property Tax Abatement Program for Qualified Historic Properties and Model Agreement to the City Council for public hearing, with Planning Commission recommendation to the City Council as follows: <ol style="list-style-type: none"> a) amend the General Plan, Historic Preservation Element (HPE) Policy as outlined in this report; b) amend the Fee Schedule to add the Mills Act Program Application Fee of \$400 and the Mills Act Program Inspection Fee of \$100/inspection; c) adopt an Ordinance establishing a two-year pilot Mills Act Property Tax Abatement Program for Qualified Historic Properties, pursuant to Section 50280-90 of the California Government Code and Section 439.2 of the California Revenue and Taxation Code; d) approve the Model Mills Act Agreement; and e) direct Staff to implement the Mills Act Property Tax Abatement Program.
	Environmental Determination:	Exempt per California Environmental Quality Act Guidelines Section 15331: Historical Resource Restoration/Rehabilitation.
	Service Delivery District:	Citywide
	City Council District:	Citywide
	Action to be Taken:	Recommendation to City Council on adoption of a two-year pilot Mills Act Program.
	For further information:	Contact case planner Joann Pavlinec at (510) 238-6344 or by e-mail at jpavlinec@oaklandnet.com

SUMMARY

Since January of 2004, City staff has been working on measures to adopt a Mills Act Program for the City of Oakland, as part of the Historic Preservation Incentives outlined in the General Plan Historic Preservation Element Policy 2.6. The Mills Act is a preservation incentive 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. Additionally, the Landmarks Preservation Advisory Board (LPAB) adopted the establishment of a Mills Act Property Tax Abatement Program for the City of Oakland as a major goal for 2005/06.

Mills Act Pilot Program

The City was awarded a matching grant from the National Trust for Historic Preservation to assist the City by providing consultation fees for economic analysis that would inform the public and individual property owners, as well as provide a basis for the City to understand the potential implications in tax revenue receipts to the City.

City staff has solicited input on shaping a Mills Act Program particular to Oakland from the Oakland Heritage Alliance, the LPAB, the Redevelopment Agency and Financial Services Agency. A Model Mills Act Agreement is attached (See Attachment A). Adoption of a Mills Act Program as proposed in this report will require a General Plan Amendment to Historic Preservation Element Policy 2.6 in order to expand the list of eligible properties and to provide for design review fee waivers for all properties participating in the Mills Act Program. An Amendment to the Master Fee Schedule to establish a Mills Act Program application fee and a Mills Act Program inspection fee will also be required. A summary of the Mills Act Agreement provisions, recommendations on property eligibility criteria for participation in the Mills Act, on methods to control fiscal impacts on the City, on application and inspection fees, and on an implementation program are outlined in this report.

At the February 27, 2006 Landmarks Preservation Advisory Meeting, the Board reviewed the adoption of a Mills Act Pilot Program and a Model Mills Act Agreement. Two citizens, a single-family home owner and developer, and the President of the Oakland Heritage Alliance commented in support of the Mills Act Pilot Program.

The Board discussed the issues raised in the staff report (See page 12 of this report for full discussion of each issue) and supported:

- Properties on the City of Oakland's Local Register of Historical Resources as those properties eligible for the Mills Act;
- A General Plan Amendment to include 'Heritage' Properties as eligible for the Mills Act Program;
- A General Plan Amendment to waive Design Review fees for Heritage Properties participating in the Mills Act Program;
- Including condominium projects as eligible for the Mills Act Program;
- Control of Mills Act fiscal impacts on the City by capping the dollar amount of revenue loss per year and capping the number of applications per year;
- A Master Fee Schedule Change, including a Mills Act application fee of \$400 and an Mills Act Inspection Fee of \$100; and
- Suggested that if the Mills Act Pilot Program is approved, it should be placed on the City's Website.

The Board unanimously recommended that staff forward the two-year pilot Mills Act Property Tax Abatement Program for Qualified Historic Properties and Model Agreement to the Planning Commission for public hearing, with the recommendation to the Planning Commission that City Council:

Mills Act Pilot Program

- a) amend the General Plan, Historic Preservation Element (HPE) Policy as outlined in this report;
- b) amend the Fee Schedule to add the Mills Act Program Application Fee of \$400 and the Mills Act Program Inspection Fee of \$100/inspection;
- c) adopt an Ordinance establishing a two-year pilot Mills Act Property Tax Abatement Program for Qualified Historic Properties, pursuant to Section 50280-90 of the California Revenue and Taxation Code;
- d) approve the Model Mills Act Agreement; and
- e) direct Staff to implement the Mills Act Property Tax Abatement Program.

BACKGROUND

The Mills Act 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. Property owners' participation in such a program is voluntary.

Many Bay Area municipalities are using the Mills Act to revitalize their cities.¹ 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. City staff receives numerous calls from owners of historic buildings requesting information on City assistance programs that might aid them in the appropriate maintenance, repair and rehabilitation of their historic properties; there has been little to offer.

Along with other supportive General Plan policies, the Historic Preservation Element Policy 2.6: Preservation Incentives calls specifically for adoption of a Mills Act Program to reduce property tax assessments for Landmarks and Preservation Districts. Adoption of a Mills Act Program could affect properties city-wide and has the potential to be a catalyst for further revitalization of Oakland's distinct and diverse neighborhoods and strong historical character. Since it is a long-term program, it also has the strong potential to continuously promote economic, quality of life and sense of community goals throughout the city as new property owners enter into Mills Act Agreements for rehabilitation or restoration. Mills Act Agreements would also directly benefit the City as

¹Bay 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, Sunnyvale.

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they are utilized to rehabilitate or restore individual buildings throughout the City, which in turn acts as a catalyst for further neighborhood reinvestment and sense of community. Please see Attachment B for a Summary list of the Mills Act basic points and benefits.

Should a Mills Act Program be established, there are approximately 140 City of Oakland Landmarks and nine designated S-7 and S-20 Historic Districts (consisting of approximately 1,000 properties) that could immediately apply for a Mills Act Agreement. Under the existing Historic Preservation Element Policy 2.6, staff is recommending adding the rest of the City of Oakland’s Local Register of Historical Resources as eligible properties for the Mills Act Program. Therefore, in addition to those properties already mentioned above, there would be an approximately 2,500 additional properties that would be considered qualified historic properties, but which would be required to seek City of Oakland designation (Landmark or Heritage) prior to, or concurrent with in the case of Heritage designation, an application for a Mills Act Agreement. Properties that are not part of the Local Register (e.g. those Potential Designated Historic Properties that have an existing rating of “C”) could first apply for Heritage Property designation, after which they could also apply for and benefit from the program. Properties not in the Local Register constitute the remainder of the historic properties in the City and include an approximate total of 17,000 properties.

Currently qualified for Mills Act Agreement [Designated Historic Properties (DHPs)]	1,140 properties
Qualify with Proposed General Plan Amendment (Local Register)	2,500 properties
Potentially Qualified [Potential Designated Historic Properties (PDHPs)]	17,000 properties

National Trust for Historic Preservation Grant (Johanna Favrot Fund for Historic Preservation) for Consultant Assistance

In order to pursue a Mills Act Program, the City has received a matching grant from the Johanna Favrot Fund for Historic Preservation from the National Trust for Historic Preservation; the City Council has approved matching funds (Resolution 78297). In addition further funding is provided per Mitigation Measures in both the West Oakland Redevelopment Plan EIR and the Central City East Redevelopment Plan EIR.

Summary - Economic Analysis Report (by Economic & Planning Systems)

Economic & Planning Systems (EPS), a land economics consulting firm experienced in services related to real estate development, market analysis, public/private partnerships, and the financing of government services and public infrastructure, has assisted the City with the analysis of the financial and fiscal implications of a Mills Act Program.

Mills Act Pilot Program

EPS has completed its research and analysis and has provided the City with its results. (Please see Attachment C). This analysis helps to quantify the potential magnitude of property tax savings for properties with different characteristics. The information can be used to inform the public, decision makers and individual property owners, as well as provide a basis for the City to understand the potential implications in tax revenue receipts to the City. Mills Act properties are assessed by the County using the "income approach" to value to determine property tax adjustments. The analysis utilized a matrix of case study properties. The EPS report includes several illustrative examples based on the above methodology.

In the analysis, residential properties are valued based on their rental income, which typically results in a value lower than current market values. For commercial properties, the benefit of the Mills Act is less, however still provides some benefit.

The research and analysis showed the following:

- Residential properties with assessed values reflecting current market prices are expected to experience property tax savings of 40% to 50% under the Mills Act.
- Commercial properties are expected to experience savings of 10% to 20% under the Mills Act.
- The Mills Act's income approach to value is not likely to produce a benefit for properties last sold more than two to five years ago.
- Case studies suggest that properties' specific characteristics can produce a wide variety of results under the Mills Act.
- Potential property tax revenue losses as a result of a Mills Act Program should be understood in the larger context of the City's tax base. Oakland generates total property tax revenues of roughly \$313 million, of which approximately \$85 million would go to the City. Savings may be significant for the individual property owner; however, even with substantial participation the loss to the City is likely to be an extremely small portion of total property tax revenues.
The report sample of a 4,000 square foot residential property with an assessed value of \$800,000 might be expected to experience a 45 percent decrease in property taxes under a Mills Act Agreement, about \$1,000 of which represents the City's share. Ten similar properties that participate in the Mills Act program, would represent a reduction to the City's property tax revenues by about \$10,000 annually.
- Although the property tax impacts of the Mills Act in redevelopment areas will be borne predominantly by the redevelopment agency, the Mills Act will further redevelopment goals by encouraging property rehabilitation.²

² In general, the amount of taxes saved by a Mills Act property owner is more than what the city loses. However, this may not be true if the property is in a redevelopment area. Property tax revenue in redevelopment areas is not divided between the city, county and other political subdivisions. The redevelopment concept is that public investment in a project area will result in an increased property values and in turn increased tax revenues. In order to pay for the public

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Four properties ranging in Assessed Value between \$440,000 and \$1,500,000 were compared in EPS's analysis. Under the Mills Act the annual property tax decrease per property ranged from \$8 to \$4,708, with the accompanying City percent decrease ranging from \$2 (0%) to \$984 (45%).

Summary - Comments/Policy Direction from Mills Act Issue Meetings:

- 1. Landmarks Preservation Advisory Board**
- 2. Oakland Heritage Alliance**
- 3. City Redevelopment Agency and City Financial Services**

Staff has solicited direction from the historic community and in-house City stakeholders, in order to create an inclusive pilot program that responds to a variety of Oakland issues. A short summary of comments from these meetings is presented below.

1. Landmarks Preservation Advisory Board (LPAB):

The LPAB discussed the Mills Act at its September 12, 2005 meeting. The following concerns were expressed:

- Catastrophic events occur in people's lives. Should a Mills Act Program participant become ill, or unemployed, the penalty for breach of agreement is severe. Recommend that the Oakland Mills Act Program address this.

Please see Mills Act Agreement (Attachment A) Section 4c which allows the Development Director to administratively adjust the schedule timeline of the work program, by a written recorded instrument executed by both parties.

- Concern that the process may be overwhelming for many who want to participate in the program.

Staff will provide assistance to applicants. Information regarding the process will be available to those considering application.

- Recommendation that Mills Act Agreement participants be required to work with an architect, and that applicants for the program submit a budget with their work program in order to determine that the proposed budget is realistic and the proposed work program and schedule is feasible.

The applicant will submit a work program with an estimated budget at the time of application. At each phase of the project, or for the entire work program, the applicant will submit a design review application to be reviewed and approved by the Landmarks Preservation Advisory Board.

investment, the entire increased tax revenues, 'tax increment,' are returned to the redevelopment agency rather than being divided. Thus, in a Mills Act property located in a redevelopment area, the resulting loss of revenue will be borne entirely by the local government rather than being apportioned among various governmental agencies.

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- Recommendation that the program also apply to multi-unit residential projects.

The Mills Act Program will be available to multi-use residential projects and to live-work projects. The Mills Act state-enabling legislation is designed for all tax paying properties. The Mills Act Agreement availability to Condominium properties in Oakland's program is discussed later in this report. (See Section 3, bullet point 1.)

2. Oakland Heritage Alliance:

- Supportive of the program. Should be modeled on those cities that are most successful (i.e., San Diego).
- At the end of the Pilot Program, analysis should include how the program affects neighborhoods (i.e., the domino effect of non-subsidized investment that follows when one or two buildings benefit from the Mills Act). Look at tax increases in two to three years that occur as a result of Mills Act agreements.

The two-year pilot program will be evaluated.

- Consider other sources of subsidies available when determining qualifications for a Mills Act Agreement. For example, does the building qualify for Historic Tax Credits? For a Redevelopment Façade Grant, etc.? Determine through City's Redevelopment office if there is a need of the Mills Act for high end projects, or if other available funds might meet the project's financial need.

Implementation of the Mills Act Program provides guidelines to address this concern. (Discussed later in this report)

- Consider an expedited designation process for owner initiated landmarking.

Staff recommends that this be considered following the Pilot Program, due to time considerations. If the Pilot Program draws a number of applicants whose buildings are Landmark-eligible, but not designated properties, this recommendation will be considered in the evaluation. The Implementation requires that applicants during the first year of the Pilot Program are property owners of currently designated historic properties or on the Local Register of Historic Resources applying for Heritage Property designation concurrent with a Mills Act application.

- Provide that Heritage Property designation can occur concurrent with Mills Act Agreement application.

Heritage Property designation may be made by either the Landmarks Preservation Advisory Board or City Planning Commission. Per the Mills Act Program Implementation, the LPAB will review the application and the work program. Any application for the Mills Program Agreement and for Heritage Property designation shall be concurrently reviewed with eligibility determined by the LPAB.

Mills Act Pilot Program

- If during the pilot program it appears that there is a significant response to the program, hire additional staff to facilitate a greater number of agreements/year.

Staff recommends that this be considered following the Pilot Program. If the Pilot Program draws a significant number of applicants, this shall be considered as a recommendation of the Pilot Program evaluation.

- Create a template for the five to ten top uses for Mills Act: (i.e., roof, foundation, seismic, windows, siding, etc.). Require that structural issues that need to be addressed in order to maintain the integrity of the building be completed first.

The suggested implementation requires that work incorporated in the Mills Act Agreement work program be limited to character defining historic features and maintenance for structural integrity. Staff suggests that this information be included in the information about the program. The LPAB will review the work programs and will be able to address priorities.

3. Redevelopment Agency and Financial Services Agency:

- Recommendation to not include condominium projects as eligible for the Mills Act Program.

Since this recommendation, staff has had the opportunity to discuss this recommendation with condominium conversion developers who focus on adaptive reuse of historic buildings. These developers recommended that condominium projects be eligible for the Mills Act Program because Federal Historic Tax Credits are not available for this type of project (available for income-producing projects only). One Portland developer has used an Oregon program similar to the Mills Act, as a marketing tool to offer potential condo buyers lower taxes. Thus, the Mills Act Program could be used in this way to provide an incentive for rehabilitation of historic buildings for condominiums. Staff recommends that condominium projects be included as eligible for the Mills Act Program.

The Mills Act Program may be an effective tool to propel adaptive reuse of Oakland's historic buildings to condominiums. Also, as part of the program implementation, the Redevelopment Agency has requested concurrent review of any commercial project applying for the Mills Act Program to determine if other funding is available. This review could include condo conversions; it would act as a check to ensure that the City's funding sources are allocated appropriately. (See below.)

- All commercial applicants should be reviewed on a case-by-case basis by the Redevelopment Agency to determine other funding that might be available and if the Mills Act Program is necessary for the project to move forward financially.

Mills Act Pilot Program

This recommendation is included in the implementation recommendations.

- Recommend that during the first year of the pilot program, properties must already be historically designated or on the Local Register of Historic Resources applying for Heritage Property designation concurrent with a Mills Act application, to apply for the Program.

This recommendation is included in the implementation recommendations.

- The pilot program impact on City revenues should be limited to \$100,000/year or \$200,000 cumulatively for the two-year pilot program.

The Ordinance to enable the two-year pilot Mills Act Program will incorporate the above limits. These limits would allow unused funds in the first year to be rolled over to the second year, for a two-year total of \$200,000.

GENERAL PLAN POLICY

As stated earlier in this report the Historic Preservation Element of the General Plan calls specifically for adoption of a Mills Act Agreement program to reduce property tax assessments for Landmarks and Preservation Districts. In addition, the adoption of a Mills Act Program for the City of Oakland is strongly supported by other General Plan Policies, including:

- **Policy I/C1.4 Investing in Economically Distressed Areas of Oakland**
Economic investment, consistent with the City's overall economic strategy, should be encouraged, and, where feasible, should promote viable investment in economically distressed areas of the City.
- **Policy I/C2.2 Reusing Abandoned Buildings**
The reuse of abandoned industrial buildings by non-traditional activities should be encouraged where the uses are consistent with, and will assist in the attainment of, the goals and objectives of all elements of the Plan.
- **Policy D1.4 Planning for Old Oakland**
Old Oakland should be respected and promoted as a significant historic resource and character-defining element, with Washington Street as its core. Residential development in Old Oakland should be of mixed housing type, with ground-floor retail where feasible.
- **Policy D6.2 Reusing Vacant or Underutilized Buildings**
Existing vacant or underutilized buildings should be reused. Repair and rehabilitation, particularly of historic or architecturally significant structures, should be strongly encouraged.

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- **Policy D12.1 Promoting Oakland's Strengths**
Build on and promote Oakland's educational resources, historic importance as an entertainment venue, existing cultural diversity, and strong arts community.
- **Policy N9.1 Recognizing Distinct Neighborhoods**
The City should encourage and support the identification of distinct neighborhoods.
- **Policy N9.2 Supporting Neighborhood Improvement**
The City should be supportive of the efforts of local neighborhood organizations in improving their neighborhoods, by providing information, guidance, and assistance where feasible.
- **Policy N9.8 Preserving History and Community**
Locations that create a sense of history and community within the City should be identified and preserved where feasible.
- **Policy N9.9 Respecting Architectural Integrity**
The City encourages rehabilitation efforts which respect the architectural integrity of a building's original style.

Historic Preservation Element

- **Objective 2: Preservation Incentives and Regulations**
To develop a system of preservation incentives and regulations for specially designated significant older properties which (i) enhances economic feasibility for preservation; (ii) provides a predictable and appropriate level of protection, based on each property's importance; (iii) reasonably balances preservation with other concerns; and (iv) operates efficiently, avoiding unnecessary regulatory procedures and review periods.
- **Policy 2:1 Preservation Incentives and Regulations for Designated Historic Properties**
The City will use a combination of incentives and regulations to encourage preservation of significant older properties and areas which have been designated as Landmarks, Preservation Districts, or Heritage Properties.
- **Policy 2.6: Preservation Incentives**
Landmarks and all properties contributing or potentially contributing to a Preservation District will be eligible for the following preservation incentives:
 - (i) Mills Act contracts for reducing property tax assessments;

Mills Act Pilot Program

- **Policy 3:14 Commercial Revitalization Programs**
The City will give special consideration to area wide commercial revitalization efforts which preserve or enhance significant numbers of existing or Potential Designated Historic Properties.

MILLS ACT AGREEMENT PROVISIONS

The Model Mills Act Agreement (Agreement) is attached (Attachment A). The major provisions and concepts of the Agreement are outlined below.

Participation: Participation on the part of the property owner is completely voluntary.

Agreement: The Agreement is between the City and the owner of a designated historic structure.

Tax Assessment: Upon receipt of an executed Agreement, the County Tax Assessor is directed by the State to re-assess the value of the property, resulting in a reduction of property tax for the owner, which will vary depending on a number of factors.

Term: The minimum term of an Agreement is ten years. An additional year is added at each anniversary date of the Agreement, unless the owner or the local government gives written notice of non-renewal by specified deadlines in an agreement year. If proper notice of non-renewal is given, the agreement will cease to be effective 10 years hence. However, see Cancellation below.

Preservation/Restoration/Rehabilitation/Maintenance Requirement: The Agreement requires that the owner preserve/rehabilitate and maintain cultural, historical and architectural characteristics of the listed historic property, as approved by the LPAB. Any preservation/rehabilitation and maintenance work must be done in conformance with the standards administered by the State of California's Office of Historic Preservation, the State Historical Building Code, and the Secretary of the Interior's Standards. At minimum, the Mills Act requires the owner to prevent deterioration of the property. The Agreement provisions would include language defining maintenance requirements, as outlined below.

Property Maintenance (Exhibit D of the Mills Act Agreement): The following conditions are prohibited:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls, and windows, broken windows, peeling exterior paint, broken structures;
2. Graffiti;
3. Incomplete exterior construction where no building inspections have been requested for six or more months, or for work which does not require a building permit, where there has been no significant progress for 90 days.

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Required Inspection: The Agreement provides for periodic inspections as necessary to determine the owner's compliance with terms of the agreement.

Applicability to New Owners: Both the benefits and the burdens of the Agreement transfer to new owners of a property that is subject to an Agreement. The Mills Act requires that the Agreements be recorded with the County Recorder. This will notify any prospective purchaser of a Mills Act property of the Agreement's existence.

Cancellation of Mills Act Agreements: The City Council may, after notice and hearing, cancel an Agreement if it determines that the owner has breached any of the above or other agreement terms or if the property no longer meets the criteria for listing on an official register. In the event of a cancellation, the owner is assessed a penalty of 12.5% of the property's market value at the time. The Mills Act does not contain a provision that would allow an owner to cancel an Agreement other than by giving 10 years notice of non-renewal (Term above).

The City of Oakland will also include a provision in the Agreement that allows for the cancellation of an Agreement in the event a property is destroyed through no fault of the owner. To the extent state law allows, the cancellation of agreements in this instance would occur without payment of the cancellation fee.

The City of Oakland will also include a provision in the Agreement that allows the owner to modify the work program in case the owner undergoes a catastrophic event, such as terminal illness, or loss of job for an extended period of time, minimum of six months.

Enforcement: The Mills Act allows the City to obtain a court order to compel the actual performance of each of the obligations contained in the Agreement. Thus, even though an owner may wish to default on the Agreement, he or she may be compelled to comply with the specific stipulations of the Agreement for its entire term.

MILLS ACT PROGRAM ISSUES

Issue #1: Determination of property eligibility for participation in the Mills Act;

LPAB support at 2/27/06 Meeting: Properties on the City of Oakland's Local Register of Historical Resources as those properties eligible for the Mills Act

Per Government Code, Section 50280.1, [Historical Property Contracts, (The Mills Act)], Qualified historical property is defined as:

- Privately owned property which is not exempt from property taxation and which meets either of the following:
 - i. 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;

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- ii. Listed in any state, city, county, or city and county official register of historical or architecturally significant sites, places, or landmarks.

Staff is recommending that 'Qualified historical property' for the City of Oakland include not only currently designated properties, but also the City of Oakland's Local Register of Historical Resources. As defined in Policy 3.8 of the Historic Preservation Element, the following properties constitute the City of Oakland Local Register of Historical Resources:

- All Designated Historic Properties (Landmarks, Heritage Properties, Study List Properties, Preservation Districts, and S-7 and S-20 Combining Zone Properties); and
- Those Potential Designated Historic Properties that have an existing rating of "A" or "B" or are located within an Area of Primary Importance.

The Local Register of Historical Resources would be consistent with i. and ii. above. The Local Register includes those properties listed on the National Register (individually or in districts) because National Register properties by definition have an 'A' or 'B' rating or are located within an Area of Primary Importance.

PDHP's on the Local Register but not currently designated would be required to minimally apply for and attain Heritage Property designation from the LPAB in order for the Mills Act Program application to move forward to the Planning Commission. As outlined earlier, the Heritage Property designation process would be concurrent with the Mills Act application process. Heritage Property designation could be achieved much more quickly than Landmark designation, due to the length and complexity of the Landmark designation process. Under the Pilot Program, applicants seeking City of Oakland Landmark designation would be required to go through the Landmark designation process (e.g. Landmark initiation, Planning Commission recommendation, City Council designation) prior to applying for a Mills Act Program agreement.

This criterion would not automatically include the vast majority of PDHP properties identified in an Area of Secondary Importance or rated C or below. Such PDHP's would be required to first apply for 'Landmark' or 'Heritage Property Designation.'

In some discussions regarding the Mills Act, it had been suggested that the Mills Act only apply to certain areas of the City, to only certain uses (e.g., residential, commercial, etc.), or to a pre-determined scale of a building (defined by square footage). Staff recommends that these criteria be kept open during the Pilot Program and results studied toward the end of the Pilot Program, to determine based on response, if the Mills Act should be more focused than Citywide.

However, as explained below, a General Plan Amendment is required to modify properties eligible for participation in the Mills Act Program.

Mills Act Pilot Program
General Plan Amendment

Adoption of a Mills Act Ordinance as outlined in this report would require a General Plan Historic Preservation Element Amendment. This would be agendized for review by City Council concurrently with the adoption of the Mills Act Ordinance.

The Oakland General Plan, Historic Preservation Element Policy 2.6 outlines Preservation Incentives. The applicable sections of Policy 2.6 state (Please see Attachment E for the entire policy):

- (a) *Landmarks and all properties contributing or potentially contributing to a Preservation District will be eligible for the following preservation incentives:*
 - (i) *Mills Act contracts for reducing property tax assessments;*
 - (viii) *fee waivers or reductions for City permits for demolition, new construction, or alterations.*
- (b) *Compatible new development on vacant noncontributing Preservation District parcels will be eligible for Incentives (iv), (v), (vi) and (vii). Heritage Properties will be eligible for incentives (ii), (vi) and (vii).*

Policy 2.6(b) currently excludes Heritage Properties from eligibility for the Mills Act Program, and from fee waivers or reductions for City permits. It is staff's recommendation that Heritage Properties be eligible for the Mills Act Program, and that Heritage Properties that enter into Mills Act Agreements receive a design review fee waiver, as Landmarks and Preservation Districts currently receive. The applicant's Mills Act Work Program will require Design Review by the Landmarks Preservation Advisory Board in order to determine that any proposed maintenance or restoration/rehabilitation work is in compliance with the Secretary of Interior's Standards.

Issue #2: General Plan, Historic Preservation Element Policy 2.6 excludes Heritage Properties from eligibility for the Mills Act Program:

LPAB support at 2/27/06 Meeting: A General Plan Amendment to include 'Heritage' Properties as eligible for the Mills Act Program

Staff recommends that Heritage Properties be included as eligible for Mills Act Program agreements.

A Heritage Property is defined in Policy 2.5 of the Historic Preservation Element as follows:

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Properties which definitively warrant preservation but which are not Landmarks or Preservation Districts will be eligible as Heritage Properties and may be so designated by either the Landmarks Preservation Advisory Board or the City Planning Commission. Heritage Properties may also be designated by the Director of City Planning, subject to confirmation within 45 days by either the Board or Commission.

A property is eligible for Heritage Property designation if it either:

- (a) has received an existing or contingency rating of "A" (Highest Importance), "B" (Major Importance), or "C" (Secondary Importance) according to the methodology of the Intensive Survey;*
- (b) has received an existing or contingency rating of "A" or "B" from the Reconnaissance Survey; or*
- (c) contributes or potentially contributes to any area potentially eligible for Preservation District designation.*

Demolition, removal or major alterations of Heritage Properties may normally be postponed for up to 120 days.

Oakland has a wealth of individual historic buildings and neighborhoods matched by few other California cities. These historic properties consist of Landmarks and a number of individual Landmark quality A and B- rated properties; these are the outstanding and especially fine architectural examples of major historical importance. And, while some 140 of these individual buildings have been designated as City of Oakland Landmarks, few neighborhood districts have become designated Historic Districts. However, overall, Oakland's distinct historic neighborhoods contribute significantly to the historic architectural character of the City. Most often in these older neighborhoods, a high percentage of the housing stock qualifies as 'C' rated, superior or visually important examples. Individual 'C' rated structures could qualify for 'Heritage' property designation, prior to any Historic District designation. Maintaining the physical integrity of these abundant C-rated properties is critical to maintaining the historic character of each neighborhood.

Staff is recommending that Policy 2.6 be modified to include Heritage Property participation in the Mills Act Program because Historic District designation (the other manner which would determine these properties eligible for the Mills Act) is not a process that is easily achievable; it requires a significant level of neighborhood organization, time and commitment. However, since most of the properties in these neighborhoods would be individually eligible for historic designation as Heritage Properties, they could qualify for the Mills Act Program without waiting for the entire neighborhood to become a designated historic district.

Modifying Historic Preservation Element Policy 2.6 to include Heritage Property participation in the Mills Act Program is also particularly timely because of recent

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adoption of two Redevelopment Plans, Central City East and West Oakland³. The Mills Act would provide a concurrent avenue of investment in these economically distressed areas of the City. The timing of these Redevelopment Plans and the proposed adoption of a Mills Act Program also coincides with a period of economic hardship for middle- to low-income homeowners and small business owners. The Mills Act is one of the very few incentives available to owners of historic properties and therefore is likely to encourage property maintenance and restoration/rehabilitation as well providing an incentive for additional historic designations. Over time, these individual Heritage Property designations along with Mills Act participation will lead to revitalization, reinvestment and a strong sense of community in each neighborhood, and in time, neighborhood organizations seeking Historic District designation.

Issue #3: General Plan, Historic Preservation Element Policy 2.6 excludes Heritage Properties from fee waivers or reductions for City permits.

LPAB support at 2/27/06 Meeting: A General Plan Amendment to waive Design Review fees for Heritage Properties participating in the Mills Act Program

Staff recommends that Heritage Properties applying for Design Review as part of a Mills Act Program agreements receive a fee waiver for design review. (Landmark properties, S-7 and S-20 Preservation Districts currently receive design review fee waivers.)

Historic Preservation Element Requirement for highest local designation for City-Assisted Properties

Policy 2.6 provides for fee waivers for Landmarks and Preservation Districts, but not for Heritage Properties unless the Heritage Property is designated as a Landmark, included in a Preservation District, or subject to protective covenants. This restriction comes from Policy 3.3: Designated Historic Property Status For Certain City-Assisted Properties (See Attachment F) which requires that to the extent consistent with other General Plan Goals, Policies and Objectives, projects involving existing or Potential Designated Historic Properties apply to receive the highest local designation for which they are eligible prior to issuance of a building permit, as a condition of financial assistance. However it does not require Landmark or Preservation District application for projects which are small-scale or do not change exterior appearance.

Staff finds that waiving design review fees for Heritage Properties is consistent with the intent of Policy 3.3, since in most cases these Mills Act agreement Heritage Properties would be small-scale. With respect to a change of exterior appearance, they may change; however, exterior changes would reverse past inappropriate design modifications, in order to meet the Secretary of Interior's Standards.

³ There are approximately 9,000 historic structures in these two areas, potentially eligible for some level of designation.

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In the technical report of the DRAFT Historic Preservation Element, Policy 3.3 is further clarified. The technical report states that this policy would mostly apply to financial assistance programs administered by the City's Office of Housing and Neighborhood Development and the Office of Economic Development and Employment. It further states that small scale projects should be exempted from applying for Landmark or Preservation District designation because they are usually for low-income households, many of which are owner occupied, or small businesses with limited financial resources. As an alternate, the technical report states that these should be designated as Heritage Properties.

In order to respond to the above two issues, Staff recommends amending Policy 2.6 as follows.

POLICY 2.6: PRESERVATION INCENTIVES

- (a) Landmarks and all properties contributing or potentially contributing to a Preservation District will be eligible for the following preservation incentives:
 - ~~(i) Mills Act contracts for reducing property tax assessments;~~
 - ~~(i)(ii)~~ State Historical Building Code and other related alternative codes for older buildings such as the Uniform Code for Building Conservation (UCBC), to provide more flexible construction standards;
 - ~~(ii)(iii)~~ conservation easements to reduce property tax assessments and, for National Register properties, to obtain income tax deductions;
 - ~~(iii)(iv)~~ broader range of permitted or conditionally-permitted uses;
 - ~~(iv)(v)~~ transferable development rights;
 - ~~(v)(vi)~~ priority for economic development and community development project assistance and eligibility for possible historic preservation grants for low-income housing;
 - ~~(vi)(vii)~~ eligibility for acquisition, rehabilitation, and other development assistance form a possible historic preservation revolving fund or possible Marks historical rehabilitation bond program;
 - ~~(vii)(viii)~~ fee waivers or reductions for City permits for demolition, new construction, or alterations.

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- (b) Properties on the City's Local Register of Historic Resources (Landmarks, Heritage properties, Preservation Study List properties, all properties contributing to an S-7 or an S-20 Preservation District, and those Potential Designated Historic

Properties that have an existing rating of "A" or "B" or are located within an Area of Primary Importance) will be eligible for the following preservation incentives:

(i) Mills Act agreements for reducing property tax assessments;

(ii) Waiver of City Design Review fees for design review associated with a Mills Act Agreement.

~~(c)(b)~~ Compatible new development on vacant noncontributing Preservation District parcels will be eligible for Incentives ~~(iv), (v), (vi) and (vii)~~ (iii), (iv), (v) and (vi). Heritage Properties will be eligible for incentives ~~(ii), (vi) and (vii)~~ (i), (v) and (vi).

Note: Policy 3.3 requires that in order for a Heritage Property to receive Incentives ~~(vi) (v) and (viii)~~ (vi), the Heritage Property in exchange for these incentives must either be designated as a Landmark, included in a Preservation District, or be subject to protective covenants with provisions similar to those for Landmarks and Preservation Districts except for projects which are small scale or do not change exterior appearance.

Issue #4: Eligibility of Condominium Projects for the Mills Act Program

LPAB support at 2/27/06 Meeting: Including condominium projects as eligible for the Mills Act Program

Staff recommends that owner-occupied condominium projects be eligible for the Mills Act Program because Federal Historic Tax Credits are not available for this type of project (available for income producing projects only). One Portland developer has used an Oregon program similar to the Mills Act as a marketing tool to offer potential condo buyers lower taxes. Thus, the Mills Act could be used in this way to provide an incentive for rehabilitation of historic buildings for condominiums.

EPS has researched the use of Mills Act contracts for condominium buildings in other California cities. These models provide examples of how the Act might be applied to condominiums. The Mills Act has been applied to condos in Orange Count and Los Angeles County using two basic approaches.

The first approach consists of a single contract with a condo owners' association. Condo units are assessed based on the Mills Act formula and property tax savings show up on *each individual owner's property tax bill*. The owners' association is then responsible for

Mills Act Pilot Program

compliance with the contract and may collect extra dues from members to make exterior and common area improvements. This approach has the advantage of allowing the City to deal with a single entity. The City of Long Beach currently has Mills Act contracts with the owners' associations of three to four condominium buildings.

In the second approach, separate contracts are established with individual condominium owners. The effect on property taxes, and therefore the tax incentive to participate, is the same as under a single contract with the owners' association. However, there is not enforcement through an owners' association or similar entity. The contracts may require owners to place their property tax savings in a special fund used to pay for improvements to exteriors and common areas, as has been done in the City of Pasadena.

Although the City of Los Angeles does not currently have Mills Act contracts with condominiums, six pending condo conversions will subdivide Los Angeles apartment buildings with existing Mills Act contracts. These contracts will remain in place and will initially reside with the owners' associations. The Los Angeles County Assessor's Office has indicated that it will require that the City execute contracts with individual condo owners within four years of conversion, though the specific structure of these contracts has not yet been determined.

Staff recommends that the actual structure of a Mills Act condominium project be structured so that the City deals with a single entity. The actual structure of the contracts beyond this requirement would need to be worked out with the County Assessor. The LPAB strongly recommended that condominium projects be included as eligible for the Mills Act Program because it could facilitate the rehabilitation of many of Oakland's Mills Act eligible buildings.

Issue #5: Control of fiscal impacts on the City through capping the dollar amount of revenue loss per year and/or capping the number of applications per year

LPAB support at 2/27/06 Meeting: Control of Mills Act fiscal impacts on the City by capping the dollar amount of revenue loss per year and capping the number of applications per year

Based on preliminary research and available data, the amount of taxes saved by the property owner is more than what the city loses, as the county absorbs the majority of the loss. Actual savings are determined by the County Assessor following submittal of the Mills Act Agreement. Therefore, the actual amount of revenue loss could not be determined until after entering into the Mills Act Agreement. EPS, our consultants, have provided a Mills Act Property Tax Calculator to estimate the impact of the Mills Act on any given property. A second table they have provided gives the associated impact on the City and/or Redevelopment Agency. We will test these tools during the Pilot Program for accuracy and reliability.

Mills Act Pilot Program

Two methods have been used by other cities to cap revenue losses to cities: 1) limiting the number of agreements per year; or 2) limiting the dollar amount of tax revenue losses per year (estimated).

The City is proposing to do both during the Pilot Program. At this time, the City is looking at a proposed two-year pilot program, with a cap of 10 applications the first year and a cap of 20 applications in the second year. The pilot program impact on City revenues (per the recommendation of Redevelopment/Financial Services Agency) shall be limited to \$100,000/year or \$200,000 cumulatively for the two-year pilot program. However, rollovers of both applications and fiscal impacts shall be allowed, provided the total number of applications does not exceed 30 and the total fiscal impact does not exceed \$200,000 for the two-year Pilot Program.

Eighteen months after the implementation of a Mills Act Program following City Council approval, City staff would prepare a report for the City Council that addresses the effects on property tax revenue, staff workload and neighborhood revitalization and request that Council direct staff as to adoption of the Mills Act Program, future caps and processes.

Issue #6: Determination of Application and Inspection Fee Amounts/Master Fee Schedule Change

LPAB support at 2/27/06 Meeting: A Master Fee Schedule Change, including a Mills Act application fee of \$400 and an Mills Act Inspection Fee of \$100

Government Code Section 50281.1 Contract fee states:

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 not to exceed the reasonable cost of administering this program. The Mills Act also requires periodic examination of the property to determine the owner's compliance with the contract.

Application Fee

In reviewing fees charged by cities with an existing Mills Act Program, there is range from no fees to a fee of +\$4,000, with a mid-range \$250 - \$400 for the Mills Act application. Both the West Oakland Redevelopment Plan and the Central City East Redevelopment Plan have mitigation measures to fund a Mills Act Study for the Redevelopment Project Area. It has been suggested that these funds might be used to cover application costs for these areas. In other areas of the City, staff is recommending an application fee that will offset some of the staff costs associated with application processing and initial agreement negotiations.

Staff is recommending an application fee of \$400. This is equivalent to approximately four and one-half hours of time, based on current Administrative Pre-application fees.

Mills Act Pilot Program

The actual application, if implemented as outlined below, would require a report and hearing before the LPAB, the Planning Commission and Agreement Approval by the City Council.

The Mills Act Agreement requires the property owner to maintain the historic property and restore character defining features. Each applicant will be required to submit a work program. The LPAB will review and make the determination on the restoration/maintenance program. Following LPAB recommendation to the City Council to enter into a Mills Act Agreement with an applicant, the Planning Commission will review the application as a Consent Item, followed by a City Council authorization to the City Manager to execute the Mills Act Agreement.

Although time for this process is expected to exceed four and one-half hours, staff recommends that the fee be kept relatively low in order to encourage applications during this Pilot Program. Staff understands that cities with high Mills Act application fees have not been successful (e.g., where the fees are the highest, the Mills Act agreement has been applied for by only one applicant). Moreover, the fee should be assessed and collected at the time of application, even if the application is eventually denied (i.e., the agreement is not entered into) as the City will incur costs for processing the application.

Inspection Fee

Staff recommends an Inspection Fee of \$100 based on CEDA's building inspection fees. CEDA's charges for building inspections are rolled into the Permit Fee based on the value of the work. However, if a project exceeds the number of jobsite inspections limit, each additional jobsite visit fee is \$95.25. This would include a site visit and would be done on a periodic basis, or as necessary.

Administrative Fee

Staff is not recommending an Administrative Fee for the Pilot Program, although administrative tasks, such as answering inquiries, program out-reach, review of reports by city staff, building plan permit review, etc. will be required for the Pilot Program. Staff is recommending that this administrative time be tracked during the Pilot Program. When the Pilot Program is evaluated, an administrative fee can be considered, based on actual use of time.

The Adoption of a Mills Act Ordinance will require a change to the Master Fee Schedule by the City Council. This will be pursued concurrently with the proposed Mills Act Pilot Program.

Issue # 7: Implementation of the program;

Staff is recommending the following procedures for implementation:

- Process for review and approval of applications – once a year deadline;

Mills Act Pilot Program

(deadline is to be coordinated to meet County Assessor's review deadline for tax adjustment);

- Applications during the first year of the pilot program must be Designated Historic Properties, or on the Local Register of Historic Resources
- applying for Heritage Property Designation concurrent with the Mills Act application;
- Applications should be considered on a first-come, first-served basis. In the case of applications received simultaneously and exceeding the number of allowed Mills Act Agreements for that year, Landmark Properties, S-7 and S-20 Historic Districts should have priority over other historic properties on the Local Register of Historic Resources. Also, a broad variety of building types, scale and uses is desired to obtain as much information as possible during the Pilot Program and this will be taken into consideration.
- Limit agreements to exterior restoration/maintenance, unless the LPAB determines that the property includes significant historic interiors.
- Limit work to character defining historic features and maintenance for structural integrity;
- If the property does not require any maintenance or restoration/rehabilitation, it will not be considered for a Mills Act Agreement;
- Properties proposing additions will be eligible for the Mills Act Program if the work meets the Secretary of Interior's Standards, and if the addition is part of an overall rehabilitation;
- If a structure is in poor repair or has been altered in some way to compromise its historic status, the City and applicant agree in the Agreement to remedy the compromises within a prescribed time frame or deny the request;
- Submittal requirements include a work program with an estimated budget. At each phase of the proposal, or for the entire work program, LPAB design review will be required;
- LPAB reviews and recommends to the City Council that the Mills Act application be approved, conditionally approved or denied, with notice of recommendation to the Planning Commission;
- Consider, prior to LPAB review, other sources of subsidies available when determining qualifications for a Mills Act Agreement. For example, does the building qualify for Historic Tax Credits? For a Redevelopment Façade Grant, etc.? Determine through City's Redevelopment office if there is a need of the Mills Act Program for high end projects, or if other available funds might meet the project's financial need.
- Once agreement is approved, applicant shall submit plans based on work program to Historic Planning Staff for LPAB design review;
- Design Review fees are waived;
- Regular inspections required.

Mills Act Pilot Program

RECOMMENDATION

1. Receive any testimony from interested citizens;
2. Comment and give staff direction on the Mills Act Program issues outlined in this report;
3. Review the Model Agreement, make recommendations for any modifications and or additions;
4. Direct staff to forward the two-year pilot Mills Act Property Tax Abatement Program for Qualified Historic Properties and Model Agreement to the City Council for public hearing, with a recommendation to City Council to:
 - a) amend the General Plan, Historic Preservation Element (HPE) Policy as outlined in this report;
 - b) amend the Fee Schedule to add the Mills Act Program Application Fee of \$400 and the Mills Act Program Inspection Fee of \$100/inspection;
 - c) adopt an Ordinance establishing a two-year pilot Mills Act Property Tax Abatement Program for Qualified Historic Properties, pursuant to Section 50280-90 of the California Government Code and Section 439.2 of the California Revenue and Taxation Code;
 - d) approve the Model Mills Act Agreement; and
 - e) direct Staff to implement the Mills Act Property Tax Abatement Program.

Respectfully submitted,

CLAUDIA CAPPIO
Development Director

Prepared by:

Joann Pavlinec, Planner III
Major Projects and Historic Preservation

Attachments:

- A:** Model Mills Act Agreement for Preservation of Historic Property
- B:** Mills Act Summary
- C:** EPS Report

Mills Act Pilot Program

D: Section 50280-90 of the California Government Code and Section 439.2 of the California Revenue and Taxation Code

E. *General Plan Historic Preservation Policy, Policy 2.6: Preservation Incentives*

F. *General Plan Historic Preservation Policy, Policy 3.3: Designated Historic Property Status for Certain City-Assisted Properties*

DRAFT FOR PLANNING COMMISSION REVIEW (4/5/06)

WHEN RECORDED, RETURN TO:

City of Oakland
Community & Economic Development Agency
Attn: Planning & Zoning, Historic Preservation/Secretary of Landmarks Board
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA. 94612

(MODEL) MILLS ACT AGREEMENT FOR PRESERVATION OF HISTORIC PROPERTY

This Agreement is entered into this _____ day of _____, 200_, by and between the City of Oakland, a municipal corporation (hereinafter referred to as the "City"), and _____ (hereinafter referred to as the "Owner(s)"), owner(s) of the structure located at _____, in the City of Oakland (Exhibit A – Legal Description of Property).

RECITALS

Owner possesses and owns real property located within the City and described in Exhibit A ("Property") attached and made a part hereof.

The Property is a Qualified Historic Property within the meaning of Oakland City Council Resolution No. _____ C.M.S., in that it is a privately owned property which is not exempt from property taxation and is on the City of Oakland's Local Register of Historic Resources.

Both City and Owner desire to carry out the purposes of Section 50280 of the California Government Code and Section 439 of the California Revenue and Taxation Code.

Both Owner and City 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.

ATTACHMENT A

NOW, THEREFORE, both Owner and City, in consideration of the mutual promise, covenants and conditions contained herein and the substantial public benefit to be derived therefrom, do hereby agree as follows:

- 1) **Effective Date and Term of Agreement (California Government Code Section 50281.a)** The term of this Agreement shall be effective commencing on _____ and shall remain in effect for a term of ten (10) years thereafter. Each year, upon the anniversary of the effective date of this Agreement (hereinafter "renewal date"), one (1) year shall automatically be added to the term of the Agreement, unless timely notice of nonrenewal, as provided in paragraph 2, is given. If either City or Owner(s) serves written notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

- 2) **Notice of Nonrenewal (California Government Code Section 50282, California Revenue and Taxation Code Section 439.3)** If City or Owner(s) desires in any year not to renew the Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of the Agreement as follows:
 - a. Owners must serve written notice of nonrenewal at least ninety (90) days prior to the renewal date; or
 - b. City must serve written notice within sixty (60) days prior to the renewal date. Owners may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice of nonrenewal to Owner(s).
 - c. If the City or Owner(s) serves notice of intent in any year to not renew the Agreement, the existing Agreement shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the Agreement, as the case may be.
 - d. 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 City: City of Oakland
Community and Economic Development Agency
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612-2032
ATTN: Secretary, Landmarks Preservation Advisory Board

To Owner:

- 3) **Valuation of Historical Property (California Revenue and Taxation Code, Section 439.2)** 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.
- 4) **Preservation/rehabilitation and Maintenance of Property (California Government Code Section 50281(b)1)** 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 Landmarks Preservation Advisory Board and approved by the City Council (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. All work on the Property shall meet , at a minimum, the Secretary of Interior's Standards for Rehabilitation of Historic Properties ,the Office of Historic Preservation of the Department of Parks and Recreation (Exhibit C attached and made a part hereof), the Minimum Property Maintenance conditions (Exhibit D attached and made a part hereof) the State Historical Building code as determined as applicable by the City of Oakland and all required review and conditions of the Landmarks Preservation Advisory Board, the Planning Commission, the City Council, and/or the Community and Economic Development Agency of the City of Oakland.
 - c. If the schedule set out in Exhibit B is not complied with, then City will use the following process to determine whether the Owner(s) are making good faith progress on the schedule of work. Upon City's request, the Owner(s) shall timely submit documentation of expenditures, made to accomplish the next highest priority improvement project for the property within the last 24 months. The Owner(s) shall be determined to be in substantial compliance when the expenditures are equal to or greater than the property tax savings provided by the Property being in the Mills Act Program. This schedule set out in Exhibit B shall be revised to reflect the schedule change. The Community and Economic Development Agency's Director, or his/her designee, shall have the ability to administratively adjust the schedule timeline, in concurrence with the Property Owners(s), only by written recorded instrument executed by the parties hereto.
 - d. Owner(s) shall, within five (5) days notice from the City, furnish City with any information City shall require to enable City to determine (i) the Property's present state, (ii)its continuing eligibility as a Qualified Historic

Property, and (iii) whether the Owner is in compliance with this Agreement.

- 5) **Destruction through ‘Acts of God’ or ‘Acts of Nature’.** To the extent authorized by state law, Owner(s) shall not be held responsible for replacement/repair of the Property if it is Damaged or Destroyed through “Acts of God’/Nature, such as slide, flood, tornado, lightning or earthquake. Damaged or Destroyed means that the property is no longer restorable to a condition eligible for historic designation due to substantial loss of integrity, as determined by an Historic Architect.
- 6) **Inspections (California Government Code Section 50281(b)2).** Owner(s) agrees to permit such periodic examinations/inspections, by appointment, of the interior and exterior of the Property by the City staff, Members of the Landmarks Preservation Advisory Board, representatives of the County Assessor’s Office, representatives of the State Board of Equalization and representatives of the Department of Parks and Recreation as may be necessary to determine the Owner’s compliance with this Agreement. Such examination/inspection shall be upon not less than five (5) days written or oral notice.
- 7) **Payment of Fees (California Government Code Section 50281.1)** The Owner shall pay the City a fee established pursuant to the City’s Master Fee Schedule, for costs related to the preparation and review of the Agreement and related documents **at the time of application.**
- 8) **Binding on Successors and Assigns (California Government Code Section 50281.b.3)** Owner agrees that this Agreement shall be binding upon and inure to the benefit of all parties herein, their heirs, successors in interest, legal representatives, assigns and all persons acquiring any part or portion of the Property, whether by operation of law or otherwise, and that any such person(s) shall have the same rights and obligations under this Agreement.
- 9) **Cancellation (California Government Code Section 50284)** City, following a duly noticed public hearing before the City Council, 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 City’s Local Register of Historic Resources ; or (c) if the Owner(s) have failed to restore or rehabilitate the Property in the manner specified in paragraph 4 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.

- 10) **No Compensation** Owner shall not receive any payment from City in consideration of the obligations imposed under this Agreement, it being recognized and agreed that the consideration for the execution of this Agreement 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 Property's assessed value on account of the restrictions required for the preservation of the Property.
- 11) **Enforcement of Agreement** As an alternative to cancellation of the Agreement for breach of any condition as provided in paragraph 9, City may, in its sole discretion, specifically enforce, or enjoin the breach of the terms of this Agreement. In the event of a default, under the provisions of this Agreement by the Owners, City shall give written notice to Owners by registered or certified mail. If such a violation is not corrected to the reasonable satisfaction of City 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 City 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 City) and hold harmless the City of Oakland, and all of its boards, commissions, departments, agencies, agents, officers, and employees (individually and collectively, the "City") 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:
- a. any accident, injury to or death of a person, loss of or damage to property occurring in or about the Property;
 - b. the use or occupancy of the Property by Owner, its Agents or Invitees;
 - c. the condition of the Property; or
 - d. 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 City's cost of investigating any Claims. Owner shall defend the City 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 City 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 City's right to demand strict compliance with any terms of this Agreement. No acts or admissions by City, or any agent(s) of City, shall waive any or all of City'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 with Alameda County (California Government Code Section 50282.e)** No later than 20 days after execution of this Agreement, the Owner shall record with the county recorder a copy of the Agreement and provide proof of such to the City.
- 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 City with a copy of such notice.
- 19) **Eminent domain (California Government Code Section 50288)** In the event that the Property 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 Agreement, such Agreement shall be canceled and no fee shall be imposed under paragraph 9. This Agreement shall be deemed null and void for all purposes of determining the value of the Property so acquired.
- 20) **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.
- 21) **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

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the
day and year first written above.

Notary Public
State of California

EXHIBITS

EXHIBIT A: *Legal Description of Property*

EXHIBIT B: *Schedule of Improvements*

EXHIBIT C: *The Secretary of the Interior's Standards for Rehabilitation*

EXHIBIT D: *Minimum Property Maintenance Standards*



ATTACHMENT B

Summary

Mills Act Program basic points:

- Participation on the part of the property owner is completely voluntary;
- The agreement is between the City and the owner of a designated historic structure;
- Upon receipt of an executed Agreement, the county Tax Assessor is directed by State law to re-assess the value of the property, resulting in a reduction of property tax for the owner, which will vary depending on a number of factors;
- Agreements extend for an initial term of ten years; however, at the end of each year, the term is automatically extended one year thereby maintaining the ten year term;
- The City must monitor the provisions of the contract until its expiration;
- Yearly inspections of the historic resource shall be performed to verify that the conditions of the Mills Act historical property contract are enforced;
- *The City may terminate the Mills Act contract at any time if it determines that the owner is not complying with the terms of the contract or the legislation;*
- The Agreement stays with the property, that is, the agreement automatically transfers to each new property owner and the property is not re-appraised at its full market value;
- The penalty for breach of agreement by the property owner is 12.5% of the current property value;
- Because of the specific contractual obligation and high financial penalty for breach of contract, only owners with a strong commitment to preserve and restore their property volunteer to enter into Mills Act agreements;
- If the owner has owned the property since before March 2, 1975 (Proposition 13) the Mills Act agreement may not be of any benefit.
- Agreements must be recorded with the County by mo/date of a given calendar year; if so, it will go into effect for a potential tax adjustment in the following tax year.

Mills Act Program benefits:

- Assurance that historic properties have been/are being property restored and maintained;
- Agreements require the property owner to maintain the property, and, where necessary, restore and rehabilitate the property in accordance with standards established by the U. S. Secretary of the Interior;
- Reduction in property tax for the property owner;
- Increases likelihood of preservation and assures mechanism to avoid deterioration;
- Fosters pride of ownership;

- The marketability of the historic property will be enhanced, because the lower tax rate is passed on to future owners;
- Its application is very flexible; there is not a set of rules that dictate to what extent the city must apply the Act's provisions. Its use may be decided on a case by case basis;
- The historic property continues to be protected by the contract even when sold, so the reduced property tax valuation is passed on to the new owner.
- Neighborhood revitalization;
- Generation of construction jobs and skilled employment opportunities;
- Green: Conservation of materials and energy used to construct those buildings;
- Sales tax revenue increases.



Economic &
Planning Systems

Real Estate Economics

Regional Economics

Public Finance

Land Use Policy

MEMORANDUM

To: Joann Pavlinec and Betty Marvin
From: Richard Berkson and Rebecca Freeland
Subject: Oakland Mills Act Analysis, EPS #15081
Date: September 21, 2005

Economic & Planning Systems, Inc. (EPS), has been retained by the City of Oakland to analyze the financial and fiscal implications of establishing a Mills Act Ordinance, which would allow for property tax reductions to qualifying historical properties in the City. This memorandum provides background on the Mills Act, and describes EPS's findings with illustrative examples. EPS also has evaluated the potential effects on several specific historic properties to indicate the range of potential effects, depending on a number of variables.

BACKGROUND

Passed in 1972, the Mills Act allows participating local governments to enter into contracts with owners of historic properties who actively participate in the restoration and maintenance of their historic properties while receiving property tax relief.

Mills Act properties are assessed using the "income approach" to value. In other words, residential properties are valued based on their rental income, which typically results in a value lower than current market values. However, if a property has not sold for several years and its current assessed value is relatively low by comparison to rental values, then the Mills Act does not offer a benefit. The exception would be in those cases where the owner is investing substantial sums to rehabilitate the property, in which case the re-assessed property value could be greater than the Mills Act valuation.

For commercial properties, the benefit of the Mills Act is much less than for rental properties. Recently sold commercial properties generally will have sold at a price which was based on current rents, similar to the valuation approach provided by the Mills Act; however, the capitalization rate used by the Mills Act results in lower values

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2501 Ninth St., Suite 200
Berkeley, CA 94710-2515
www.epsys.com

Phone: 510-841-9190
Fax: 510-841-9208



SACRAMENTO
Phone: 916-649-8010
Fax: 916-649-2070

DENVER
Phone: 303-623-3557
Fax: 303-623-9049

ATTACHMENT C

by comparison to typical capitalization rates, thus producing some benefit. As is the case for residential property, older commercial properties and properties with assessments substantially below market value will not benefit from the Mills Act.

FINDINGS

- *Residential properties with assessed values reflecting current market prices are expected to experience property tax savings of 40 to 50 percent under the Mills Act's income approach to value.*

A sample residential scenario is presented in Table 1. As shown, a 4,000-square foot residential property with an assessed value of \$800,000 (i.e., current market value) might be expected to experience a 45 percent decrease in property taxes under a Mills Act contract using the income approach to value. The specific amount of property tax savings will vary based on the size, location, potential rents, and condition of the property.

- *Commercial properties are expected to experience savings of 10 to 20 percent under the Mills Act's income approach to value.*

Commercial properties may benefit less dramatically from the Mills Act, compared to residential properties. There are two major reasons for this difference. First, the sales price of a residential property is typically greater than its rental value, whereas the market value of commercial properties generally is based on the capitalized value of anticipated rental income.

As a result, the income approach to value under the Mills Act will benefit recently sold commercial properties only to the extent that the Mills Act capitalization rate is higher than the market capitalization rate. In addition, the risk factor component of the Mills Act capitalization rate is 4 percent for residential properties but only 2 percent for commercial properties. A commercial example is presented in Table 2. As shown, projected property tax savings are approximately 16 percent, which are significantly less than the residential example.

- *The Mills Act's income approach to value is not likely to produce a benefit for properties last sold more than two to five years ago.*

Table 3 presents a second scenario, in which the residential property described in Table 1 has not been resold for a number of years. In this situation, the property's assessed value would reflect its last sale price, increased by 2 percent annually under Proposition 13. For a residential property with an assessed value that is approximately 45 percent below market value, the Mills Act income approach to value is not expected to result in decreased property taxes.

(Similarly, if the commercial property described in Table 2 had an assessed value of 15 percent below market value, as shown in Table 4, the income approach to value would not produce a benefit.)

Data from the Office of Federal Housing Enterprise Oversight indicate that housing prices in the Oakland-Fremont-Hayward Metropolitan Statistical Area have increased by 88 percent in the past five years. Based on this figure, properties sold in the past two to five years may have assessed values of 45 percent below market rate or less.

- *Case studies suggest that properties' specific characteristics can produce a wide variety of results under the Mills Act.*

EPS has estimated the impact of the Mills Act on several specific properties suggested by the City as potential candidates for the program. The projected property tax impact of the income valuation approach varies widely depending on property. This variation can be attributed to factors such as sale date, location, condition, size, and recent improvements. In some cases, the property currently is undergoing a re-appraisal because of a recent sale, and/or substantial improvements are planned which are not reflected by available data, but which would change the results as shown. Such factors should be evaluated for individual properties and emphasized in public education about the potential benefits of a Mills Act contract.

- *Potential property tax revenue losses as a result of a Mills Act program should be understood in the larger context of the City's tax base.*

According to the 2004-05 Assessment Roll, Oakland has nearly \$31.3 billion in assessed value, generating total tax revenues of roughly \$313 million, of which approximately \$85 million would go to the City (excluding tax overrides). While savings for individual property owners under the Mills Act may be significant, the loss to the City, even with substantial participation, is likely to be an extremely small portion of total property tax revenues. For example, for every ten properties similar to the example shown on Table 1 that participate in the Mills Act program, the City's property tax revenues would be reduced by about \$10,000 annually (excluding tax overrides).

- *Although the property tax impacts of the Mills Act in redevelopment areas will be borne predominantly by the redevelopment agency, the Mills Act will further redevelopment goals by encouraging property rehabilitation.*

In redevelopment areas, tax increments go to the redevelopment agency rather than being allocated among various agencies and jurisdictions. As a result, for a property in a Redevelopment Agency (RDA), any decrease in property tax

resulting from the Mills Act will be borne primarily by the redevelopment agency and losses will be magnified. For example, for every ten properties similar to the Table 1 example that are located in a redevelopment area, the RDA will lose approximately \$47,000 annually. The actual loss will depend on both the number and value of units; examples of potential Mills Act properties provided by the City suggest that average residential values and resulting property tax losses may be less than the Table 1 example.

However, the redevelopment area will experience a benefit insofar as Mills Act contracts will encourage and help fund the renovation and revitalization of properties within the RDA.

Table 1
Mills Act Property Tax Calculator (Sample Calculation)
Oakland Mills Act Analysis, EPS #15081

Item	Factor	Amount
Market Value Approach		
Assessed Value		\$800,000
Total Property Tax (1)	1.3057%	\$10,446
City Share of Property Tax	27.28% of 1% tax (2)	\$2,182
Mills Act (Income Value Approach)		
Gross Annual Income	\$1.50 / SF/ month 4,000 SF	\$72,000
Annual Expenses (3)	25% of income	<u>(\$18,000)</u>
Net Income		\$54,000
Capitalization Rate		
Interest (4)	6%	
Risk Component (5)	4%	
Tax Rate (6)	1.3057%	
Amortization (7)	<u>1.7%</u>	
Capitalization Rate, Land	10.96%	
Capitalization Rate, Improvements	12.62%	
Weighted Average Capitalization Rate (8)	12.29%	
Valuation		\$439,416
Total Property Tax	1.3057%	\$5,737
City Share of Property Tax	27.28% of 1% tax (2)	\$1,199
Total Property Tax Increase/ (Decrease) Due to Mills Act		(\$4,708)
City Property Tax Increase/ (Decrease) Due to Mills Act		(\$984)
Percent Increase/ (Decrease) Due to Mills Act		-45%

- (1) Total property tax rate is greater than 1 percent due to tax overrides.
(2) Excludes overrides.
(3) Alameda County Assessor's Office assumes approximately 25 percent of income goes to property maintenance and other operating expenses.
(4) 2004-05 State Board of Equalization Mills Act interest rate.
(5) Risk component is 2 percent for commercial properties and 4 percent for residential properties.
(6) Property tax rate is greater than 1 percent due to tax overrides.
(7) Amortizes improvements over 60 years.
(8) Assumes that land comprises 20 percent of value and improvements comprise 80 percent of value. Value of land is not amortized.

Sources: State Board of Equalization, City of Oakland, Economic & Planning Systems.

Table 2
Mills Act Property Tax Calculator (Sample Calculation)
Oakland Mills Act Analysis, EPS #15081

Item	Factor	Amount
Market Value Approach		
Assessed Value		\$1,300,000
Total Property Tax (1)	1.3057%	\$16,974
City Share of Property Tax	27.28% of 1% tax (2)	\$3,546
Mills Act (Income Value Approach)		
Gross Annual Income	\$1.25 / SF/ month 10,000 SF	\$150,000
Annual Expenses (3)	25% of Income	(\$37,500)
Net Income		\$112,500
Capitalization Rate		
Interest (4)	6%	
Risk Component (5)	2%	
Tax Rate (6)	1.3057%	
Amortization (7)	<u>1.7%</u>	
Capitalization Rate, Land	8.96%	
Capitalization Rate, Improvements	10.62%	
Weighted Average Capitalization Rate (8)	10.29%	
Valuation		\$1,093,397
Total Property Tax	1.3057%	\$14,276
City Share of Property Tax	27.28% of 1% tax (2)	\$2,982
Total Property Tax Increase/ (Decrease) Due to Mills Act		(\$2,698)
City Property Tax Increase/ (Decrease) Due to Mills Act		(\$2,698)
Percent Increase/ (Decrease) Due to Mills Act		-16%

- (1) Total property tax rate is greater than 1 percent due to tax overrides.
(2) Excludes overrides.
(3) Alameda County Assessor's Office assumes approximately 25 percent of income goes to property maintenance and other operating expenses.
(4) 2004-05 State Board of Equalization Mills Act interest rate.
(5) Risk component is 2 percent for commercial properties and 4 percent for residential properties.
(6) Property tax rate is greater than 1 percent due to tax overrides.
(7) Amortizes improvements over 60 years.
(8) Assumes that land comprises 20 percent of value and improvements comprise 80 percent of value. Value of land is not amortized.

Sources: State Board of Equalization, City of Oakland, Economic & Planning Systems.

Table 3
Mills Act Property Tax Calculator (Sample Calculation)
Oakland Mills Act Analysis, EPS #15081

Item	Factor	Amount
Market Value Approach		
Assessed Value		\$440,000
Total Property Tax (1)	1.3057%	\$5,745
City Share of Property Tax	27.28% of 1% tax (2)	\$1,200
Mills Act (Income Value Approach)		
Gross Annual Income	\$1.50 / SF/ month 4,000 SF	\$72,000
Annual Expenses (3)	25% of income	<u>(\$18,000)</u>
Net Income		\$54,000
Capitalization Rate		
Interest (4)	6%	
Risk Component (5)	4%	
Tax Rate (6)	1.3057%	
Amortization (7)	<u>1.7%</u>	
Capitalization Rate, Land	10.96%	
Capitalization Rate, Improvements	12.62%	
Weighted Average Capitalization Rate (8)	12.29%	
Valuation		\$439,416
Total Property Tax	1.3057%	\$5,737
City Share of Property Tax	27.28% of 1% tax (2)	\$1,199
Total Property Tax Increase/ (Decrease) Due to Mills Act		(\$8)
City Property Tax Increase/ (Decrease) Due to Mills Act		(\$2)
Percent Increase/ (Decrease) Due to Mills Act		0%

- (1) Total property tax rate is greater than 1 percent due to tax overrides.
(2) Excludes overrides.
(3) Alameda County Assessor's Office assumes approximately 25 percent of income goes to property maintenance and other operating expenses.
(4) 2004-05 State Board of Equalization Mills Act interest rate.
(5) Risk component is 2 percent for commercial properties and 4 percent for residential properties.
(6) Property tax rate is greater than 1 percent due to tax overrides.
(7) Amortizes improvements over 60 years.
(8) Assumes that land comprises 20 percent of value and improvements comprise 80 percent of value. Value of land is not amortized.

Sources: State Board of Equalization, City of Oakland, Economic & Planning Systems.

Table 4
Mills Act Property Tax Calculator (Sample Calculation)
Oakland Mills Act Analysis, EPS #15081

Item	Factor	Amount
Market Value Approach		
Assessed Value		\$1,105,000
Total Property Tax (1)	1.3057%	\$14,428
City Share of Property Tax	27.28% of 1% tax (2)	\$3,014
Mills Act (Income Value Approach)		
Gross Annual Income	\$1.25 / SF/ month 10,000 SF	\$150,000
Annual Expenses (3)	25% of income	<u>(\$37,500)</u>
Net Income		\$112,500
Capitalization Rate		
Interest (4)	6%	
Risk Component (5)	2%	
Tax Rate (6)	1.3057%	
Amortization (7)	<u>1.7%</u>	
Capitalization Rate, Land	8.96%	
Capitalization Rate, Improvements	10.62%	
Weighted Average Capitalization Rate (8)	10.29%	
Valuation		\$1,093,397
Total Property Tax	1.3057%	\$14,276
City Share of Property Tax	27.28% of 1% tax (2)	\$2,982
Total Property Tax Increase/ (Decrease) Due to Mills Act		(\$151)
City Property Tax Increase/ (Decrease) Due to Mills Act		(\$32)
Percent Increase/ (Decrease) Due to Mills Act		-1%

(1) Total property tax rate is greater than 1 percent due to tax overrides.

(2) Excludes overrides.

(3) Alameda County Assessor's Office assumes approximately 25 percent of income goes to property maintenance and other operating expenses.

(4) 2004-05 State Board of Equalization Mills Act interest rate.

(5) Risk component is 2 percent for commercial properties and 4 percent for residential properties.

(6) Property tax rate is greater than 1 percent due to tax overrides.

(7) Amortizes improvements over 60 years.

(8) Assumes that land comprises 20 percent of value and improvements comprise 80 percent of value. Value of land is not amortized.

Sources: State Board of Equalization, City of Oakland, Economic & Planning Systems.

**Table A
Mills Act Impact on Sample Properties
Oakland Mills Act Analysis, EPS #14081**

Address	Yr Built	SF	Most Recent Sale	05-06 Net Taxable Value	Estimated Rental Income/ Mo.	05-06 Prop. Tax without Mills Act		05-06 Prop. Tax with Mills Act		Mills Act Increase/ (Decrease)		Percent Change
						Total Tax	Tax to City (6) 27.28%	Total Tax	Tax To City (6) 27.28%	Total Property Tax	Property Tax To City	
Residential												
	1907	3,739	2004	\$758,000	\$5,633	\$9,897	\$2,068	\$5,387	\$1,125	(\$4,510)	(\$942)	-46%
	1928	3,508	1995	\$106,278	\$4,602	\$1,388	\$290	\$4,401	\$919	\$3,013	\$629	217%
	1924	4,988	2004	\$1,250,000	\$8,544	\$16,321	\$3,410	\$6,257	\$1,307	(\$10,064)	(\$2,102)	-62%
	1879	662	2004	\$150,000	\$1,500	\$1,959	\$409	\$1,434	\$300	(\$524)	(\$110)	-27%
	1898	4,227	1998	\$234,708	\$2,473	\$3,065	\$640	\$2,365	\$494	(\$700)	(\$146)	-23%
	1917	117,544		\$3,065,168	\$137,526	\$40,022	\$8,361	\$131,509	\$27,473	\$91,487	\$19,112	229%
Commercial												
	1903	50,300	2005	\$6,000,000	\$76,708	\$78,342	\$16,366	\$87,609	\$18,302	\$9,267	\$1,936	12%
	1878	14,407	2003	\$893,574	\$24,025	\$11,667	\$2,437	\$27,439	\$5,732	\$15,772	\$3,295	135%
	1931	26,560	2000	\$992,375	\$22,800	\$12,957	\$2,707	\$26,040	\$5,440	\$13,083	\$2,733	101%
	1923	10,650	2003	\$1,298,799	\$13,313	\$16,958	\$3,543	\$15,204	\$3,176	(\$1,754)	(\$366)	-10%

(1) Unusually low net taxable value.

(2) Latest assessed value is based on warehouse use and does not reflect anticipated conversion to residential units (used to estimate rental income).

(3) Not currently rehabilitated; estimated rental income may be based on planned improvements which are not reflected in latest assessed value.

(4) Estimated rental income based on recent renovation and partial conversion to residential units which may not be reflected in latest assessed value.

(5) Recently rehabilitated; estimated rental income may be based on improvements which are not reflected in latest assessed value.

(6) Excluding overrides.

Sources: City of Oakland Planning Department, Alameda County Assessor's Office, individual brokers, Economic & Planning Systems.

Mills Act
CALIFORNIA CODES - 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 the periodic examinations of the interior and exterior of the premises by the assessor, the Department of Parks and Recreation, and the State Board of Equalization as may be necessary 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 provide written notice of the contract to the Office of Historic Preservation 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 not to exceed the reasonable cost of administering this program.

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. 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.

ATTACHMENT D

Mills Act
CALIFORNIA CODES - GOVERNMENT CODE
SECTION 50280-50290

- (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. The legislative body may cancel a contract if it 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 may also cancel a contract if it determines that the owner has failed to restore or rehabilitate the property in the manner specified in the contract.

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, the county, city, or any landowner 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.

California Revenue and Taxation Code, Article 1.9, Sections 439 – 439.4

439. Historical Property Restrictions; enforceably restricted property.

For the purposes of this article and within the meaning of Section 8 of Article XIII of the Constitution, property is "enforceably restricted" if it is subject to an historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code.

439.1. Historical Property; definitions.

For purposes of this article "restricted historical property" means qualified historical property, as defined in Section 50280.1 of the Government Code, that is subject to a historical property contract executed pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. For purposes of this section, "qualified historical property" includes qualified historical improvements and any land on which the qualified historical improvements are situated, as specified in the historical property contract. If the historical property contract does not specify the land that is to be included, "qualified historical property" includes only that area of reasonable size that is used as a site for the historical improvements.

439.2. Historical Property; valuation.

When valuing enforceably restricted historical property, the county assessor shall not consider sales data on similar property, whether or not enforceably restricted, and shall value that restricted historical property by the capitalization of income method in the following manner:

(a) The annual income to be capitalized shall be determined as follows:

(1) Where sufficient rental information is available, the income shall be the fair rent that can be imputed to the restricted historical property being valued based upon rent actually received for the property by the owner and upon typical rentals received in the area for similar property in similar use where the owner pays the property tax. When the restricted historical property being valued is actually encumbered by a lease, any cash rent or its equivalent considered in determining the fair rent of the property shall be the amount for which the property would be expected to rent were the rental payment to be renegotiated in the light of current conditions, including applicable provisions under which the property is enforceably restricted.

(2) Where sufficient rental information is not available, the income shall be that which the restricted historical property being valued reasonably can be expected to yield under prudent management and subject to applicable provisions under which the property is enforceably restricted.

(3) If the parties to an instrument that enforceably restricts the property stipulate therein an amount that constitutes the minimum annual income to be capitalized, then the income to be capitalized shall not be less than the amount so stipulated. For purposes of this section, income shall be determined in accordance with rules and regulations issued by the board and with this section and shall be the difference between revenue and expenditures. Revenue shall be the amount of money or money's worth, including any cash rent or its equivalent, that the property can be expected to

yield to an owner-operator annually on the average from any use of the property permitted under the terms by which the property is enforceably restricted. Expenditures shall be any outlay or average annual allocation of money or money's worth that can be fairly charged against the revenue expected to be received during the period used in computing the revenue. Those expenditures to be charged against revenue shall be only those which are ordinary and necessary in the production and maintenance of the revenue for that period. Expenditures shall not include depletion charges, debt retirement, interest on funds invested in the property, property taxes, corporation income taxes, or corporation franchise taxes based on income.

(b) The capitalization rate to be used in valuing owner-occupied single family dwellings pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board, rounded to the nearest 1/4 percent.

(2) A historical property risk component of 4 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(c) The capitalization rate to be used in valuing all other restricted historical property pursuant to this article shall not be derived from sales data and shall be the sum of the following components:

(1) An interest component to be determined by the board and announced no later than September 1 of the year preceding the assessment year and that was the yield rate equal to the effective rate on conventional mortgages as determined by the Federal Housing Finance Board, rounded to the nearest 1/4 percent.

(2) A historical property risk component of 2 percent.

(3) A component for property taxes that shall be a percentage equal to the estimated total tax rate applicable to the property for the assessment year times the assessment ratio.

(4) A component for amortization of the improvements that shall be a percentage equivalent to the reciprocal of the remaining life.

(d) Unless a party to an instrument that creates an enforceable restriction expressly prohibits the valuation, the valuation resulting from the capitalization of income method described in this section shall not exceed the lesser of either the valuation that would have resulted by calculation under Section 110, or the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

(e) The value of the restricted historical property shall be the quotient of the income determined as provided in subdivision (a) divided by the capitalization rate determined as provided in subdivision (b) or (c).

(f) The ratio prescribed in Section 401 shall be applied to the value of the property determined in subdivision (d) to obtain its assessed value.

439.3. Historical Property; notice of nonrenewal.

Notwithstanding any provision of Section 439.2 to the contrary, if either the county or city or the owner of restricted historical property subject to contract has served notice of nonrenewal as provided in Section 50282 of the Government Code, the county assessor shall value that restricted historical property as provided in this section.

(a) Following the hearing conducted pursuant to Section 50285 of the Government Code, subdivision (b) shall apply until the termination of the period for which the restricted historical property is enforceably restricted.

(b) The board or assessor in each year until the termination of the period for which the property is enforceably restricted shall do all of the following:

(1) Determine the full cash value of the property pursuant to Section 110.1. If the property is not subject to Section 110.1 when the restriction expires, the value shall be determined pursuant to Section 110 as if the property were free of contractual restriction. If the property will be subject to a use for which this chapter provides a special restricted assessment, the value of the property shall be determined as if it were subject to the new restriction.

(2) Determine the value of the property by the capitalization of income method as provided in Section 439.2 and without regard to the fact that a notice of nonrenewal or cancellation has occurred.

(3) Subtract the value determined in paragraph (2) of this subdivision by capitalization of income from the full cash value determined in paragraph (1).

(4) Using the rate announced by the board pursuant to paragraph (1) of subdivision (b) of Section 439.2, discount the amount obtained in paragraph (3) for the number of years remaining until the termination of the period for which the property is enforceably restricted.

(5) Determine the value of the property by adding the value determined by the capitalization of income method as provided in paragraph (2) and the value obtained in paragraph (4).

(6) Apply the ratios prescribed in Section 401 to the value of the property determined in paragraph (5) to obtain its assessed value.

439.4. Historical Property; recordation.

No property shall be valued pursuant to this article unless an enforceable restriction meeting the requirements of Section 439 is signed, accepted and recorded on or before the lien date for the fiscal year in which the valuation would apply.

POLICY 2.6: PRESERVATION INCENTIVES

(a) Landmarks and all properties contributing or potentially contributing to a Preservation District will be eligible for the following preservation incentives:

(i) Mills Act contracts for reducing property tax assessments;

(ii) State Historical Building Code and other related alternative codes for older buildings such as the Uniform Code for Building Conservation (UCBC), to provide more flexible construction standards;

(iii) conservation easements to reduce property tax assessments and, for National Register properties, to obtain income tax deductions;

(iv) broader range of permitted or conditionally-permitted uses;

(v) transferable development rights;

(vi) priority for economic development and community development project assistance and eligibility for possible historic preservation grants for low-income housing;

(vii) eligibility for acquisition, rehabilitation, and other development assistance from a possible historic preservation revolving fund or possible Marks historical rehabilitation bond program; and

(viii) fee waivers or reductions for City permits for demolition, new construction, or alterations.

(b) Compatible new development on vacant noncontributing Preservation District parcels will be eligible for Incentives (iv), (v), (vi) and (vii). Heritage Properties will be eligible for incentives (ii), (vi) and (vii).¹

The incentives are discussed in the text accompanying Actions 2.6.1 - 2.6.12.

The incentives are expected to encourage greater property owner acceptance of Historic Property designations and of the accompanying development regulations. All of the incentives offer some tangible economic benefit to owners. For some incentives, such as transferable development rights and Mills Act contracts, the potential benefit can be very substantial.

The incentives are also expected to encourage more owners to actively engage in the preservation of their properties and to request Landmark or Preservation District designation in order to obtain the incentives.

1. Note: Policy 3.3 requires that in order for a Heritage Property to receive Incentives (vi) and (viii), the Heritage Property in exchange for these incentives must either be designated as a Landmark, included in a Preservation District, or be subject to protective covenants with provisions similar to those for Landmarks and Preservation Districts except for projects which are small scale or do not change exterior appearance.

POLICY 3.3: DESIGNATED HISTORIC PROPERTY STATUS FOR CERTAIN CITY-ASSISTED PROPERTIES.

To the extent consistent with other General Plan Goals, Policies and Objectives, as a condition for providing financial assistance to projects involving existing or Potential Designated Historic Properties, the City will require that complete application be made for such properties to receive the highest local designation for which they are eligible prior to issuance of a building permit for the project or transfer of title (for City-owned or controlled properties), whichever comes first.

However, Landmark or Preservation District applications will not be required for projects which are small-scale or do not change exterior appearance.

The City will prepare Intensive Survey identification and evaluation materials for existing or Potential Designated Historic Properties held by the City for subsequent disposition and provide this information to prospective developers of those properties to ensure that historic character is considered at the earliest stage of the planning and development process. Prior to final decision on the development permits or transfer of title on a City-owned or City-assisted project, the Landmark Preservation Advisory Board shall make a determination of eligibility for Historic Property designation within 30 days of referral. The Board's recommendation shall be transmitted to the decision making body for consideration in time for the final decision on the development or disposition of the property.

Any action by the City to transfer title on a Landmark eligible property shall be considered a form of "City-assistance" and subject to Policy 3.3.

ACTION 3.3.1: CITY ASSISTANCE CONTRACT PROVISIONS FOR DESIGNATED HISTORIC PROPERTY STATUS.

Develop a standard condition for City assistance contracts involving existing or Potential Designated Historic Properties requiring that application be made prior to project funding for these properties to receive the highest Designated Historic Property classification for which they are eligible. This condition will not apply to Landmark or Preservation District designation for projects which are small-scale or do not change exterior appearance.

Designation would not be effective until after project completion.

ACTION 3.3.2: SMALL-SCALE EXEMPT PROJECT DEFINITION.

Develop definition of small-scale projects to be exempt from Policy 3.3, Action 3.3.1 and Policy 3.6.

OFFICE OF THE CITY CLERK
OF OAKLAND

2006 NOV 16 PM 4: 26

APPROVED AS TO FORM AND LEGALITY
Mark P. Wall
DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

**AN ORDINANCE ADOPTING A TWO-YEAR PILOT MILLS ACT PROPERTY
TAX ABATEMENT PROGRAM FOR QUALIFIED HISTORIC PROPERTIES,
AND MAKING RELATED AMENDMENTS TO THE CITY'S MATER FEE
SCHEDULE**

- 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 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**, funding for a Mills Act study is provided per Mitigation Measures outlined in the Environmental Impact Reports for both the West Oakland Redevelopment Plan and the Central City East Redevelopment Plan; and
- WHEREAS**, the City Council approved the Johanna Favrot Fund for Historic Preservation Matching Fund Grant through the National Trust for Historic Preservation (Resolution No. 78297 C.M.S.) to assist the City with the analysis of the financial and fiscal implications of a Mills Act Program; 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 establishment of a 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 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, the City Redevelopment Agency and City Financial Service, in order to create an inclusive pilot program that responds to a variety of Oakland concerns; and

WHEREAS, the Landmarks Preservation Advisory Board on February 27, 2006 and the Planning Commission on April 5, 2006 held public hearings on the Mills Act Program, and unanimously recommended the two-year pilot Mills Act be approved by the City Council;

NOW, THEREFORE,

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

SECTION 1. The City Council finds and determines that a two-year Mills Act Pilot 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 a two-year Mills Act Pilot Program, as detailed in the April 5, 2006 Report to the City Planning Commission and the December 5, 2006 City Council Agenda Report. During the two-year pilot program, there shall be a limit of ten (10) Mills Act contracts for the first year and a limit of twenty (20) contracts for the second year with the pilot program impact on City revenues limited to \$25,000/year or \$50,000 cumulatively for the two-year pilot program. However, rollovers of both applications and revenue impacts may be allowed, provided the total number of applications does not exceed thirty (30) and the total revenue impact does not exceed \$50,000 from the City and \$500,000 from the Redevelopment Agency for the two-year pilot program. Since implementing the Mills Act is a Mitigation Measure for both the West Oakland Redevelopment Plan and the Central City East Redevelopment Plan, the pilot program implementation will pursue a minimum of 20% of the 30 Mills Act Contracts (six contracts) from the Central City East Redevelopment Area and a minimum of 20% of the 30 Mills Act Contracts (six contracts) from the West Oakland Redevelopment Area.

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. If the City Council approves any Mills Act contracts, it shall do so by resolution.

SECTION 3. Prior to the end of the two-year pilot program, city staff shall submit a report to the City Council which analyzes the effects on property tax revenue, staff

workload and neighborhood revitalization, and make recommendations as to the future caps and processes for the Mills Act Program.

SECTION 4. The City of Oakland’s Master Fee Schedule is hereby amended to adopt a new Mills Act Application Fee of \$400 and a Mills Act Inspection Fee of \$100/inspection, to be deposited in Development Service Fund (2415), City Planning – Other organization (88229).

SECTION 5. 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 6. The City Council authorizes staff to take any and all steps necessary to implement the two-year Mills Act Pilot Program consistent with this ordinance.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

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

WHEN RECORDED, RETURN TO:

City of Oakland
Community & Economic Development Agency
Attn: Planning & Zoning, Historic Preservation/Secretary of Landmarks Board
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA. 94612

**(MODEL) MILLS ACT AGREEMENT FOR
PRESERVATION OF HISTORIC PROPERTY**

This Agreement is entered into this _____ day of _____, 200_, by and between the City of Oakland, a municipal corporation (hereinafter referred to as the "City"), and _____ (hereinafter referred to as the "Owner(s)", owner(s) of the structure located at _____, in the City of Oakland (Exhibit A – Legal Description of Property).

RECITALS

Owner possesses and owns real property located within the City and described in Exhibit A ("Property") attached and made a part hereof.

The Property is a Qualified Historic Property within the meaning of Oakland City Council Resolution No. _____ C.M.S., in that it is a privately owned property which is not exempt from property taxation and is on the City of Oakland's Local Register of Historic Resources.

Both City and Owner desire to carry out the purposes of Section 50280 of the California Government Code and Section 439 of the California Revenue and Taxation Code.

Both Owner and City 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 City, in consideration of the mutual promise, covenants and conditions contained herein and the substantial public benefit to be derived therefrom, do hereby agree as follows:

- 1) **Effective Date and Term of Agreement (California Government Code Section 50281.a)** The term of this Agreement shall be effective commencing on _____ and shall remain in effect for a term of ten (10) years thereafter. Each year, upon the anniversary of the effective date of this Agreement (hereinafter "renewal date"), one (1) year shall automatically be added to the term of the Agreement, unless timely notice of nonrenewal, as provided in paragraph 2, is given. If either City or Owner(s) serves written notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

- 2) **Notice of Nonrenewal (California Government Code Section 50282, California Revenue and Taxation Code Section 439.3)** If City or Owner(s) desires in any year not to renew the Agreement, that party shall serve written notice of nonrenewal in advance of the annual renewal date of the Agreement as follows:
 - a. Owners must serve written notice of nonrenewal at least ninety (90) days prior to the renewal date; or
 - b. City must serve written notice within sixty (60) days prior to the renewal date. Owners may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice of nonrenewal to Owner(s).
 - c. If the City or Owner(s) serves notice of intent in any year to not renew the Agreement, the existing Agreement shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the Agreement, as the case may be.
 - d. 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 City: City of Oakland
Community and Economic Development Agency
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612-2032
ATTN: Secretary, Landmarks Preservation Advisory Board

To Owner:

- 3) **Valuation of Historical Property (California Revenue and Taxation Code, Section 439.2)** 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.

- 4) **Preservation/rehabilitation and Maintenance of Property (California Government Code Section 50281(b)1)** 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 Landmarks Preservation Advisory Board and approved by the City Council (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. All work on the Property shall meet , at a minimum, the Secretary of Interior's Standards for Rehabilitation of Historic Properties ,the Office of Historic Preservation of the Department of Parks and Recreation_(Exhibit C attached and made a part hereof), the Minimum Property Maintenance conditions (Exhibit D attached and made a part hereof) the State Historical Building code as determined as applicable by the City of Oakland and all required review and conditions of the Landmarks Preservation Advisory Board, the Planning Commission, the City Council, and/or the Community and Economic Development Agency of the City of Oakland.
 - c. If the schedule set out in Exhibit B is not complied with, then City will use the following process to determine whether the Owner(s) are making good faith progress on the schedule of work. Upon City's request, the Owner(s) shall timely submit documentation of expenditures, made to accomplish the next highest priority improvement project for the property within the last 24 months. The Owner(s) shall be determined to be in substantial compliance when the expenditures are equal to or greater than the property tax savings provided by the Property being in the Mills Act Program. This schedule set out in Exhibit B shall be revised to reflect the schedule change. The Community and Economic Development Agency's Director, or his/her designee, shall have the ability to administratively adjust the schedule timeline, in concurrence with the Property Owners(s), only by written recorded instrument executed by the parties hereto.
 - d. Owner(s) shall, within five (5) days notice from the City, furnish City with any information City shall require to enable City to determine (i) the Property's present state, (ii)its continuing eligibility as a Qualified Historic Property, and (iii) whether the Owner is in compliance with this Agreement.

- 5) **Destruction through ‘Acts of God’ or “Acts of Nature”.** To the extent authorized by state law, Owner(s) shall not be held responsible for replacement/repair of the Property if it is Damaged or Destroyed through “Acts of God’/Nature, such as slide, flood, tornado, lightning or earthquake. Damaged or Destroyed means that the property is no longer restorable to a condition eligible for historic designation due to substantial loss of integrity, as determined by an Historic Architect.
- 6) **Inspections (California Government Code Section 50281(b)2).** Owner(s) agrees to permit such periodic examinations/inspections, by appointment, of the interior and exterior of the Property by the City staff, Members of the Landmarks Preservation Advisory Board, representatives of the County Assessor’s Office, representatives of the State Board of Equalization and representatives of the Department of Parks and Recreation as may be necessary to determine the Owner’s compliance with this Agreement. Such examination/inspection shall be upon not less than five (5) days written or oral notice.
- 7) **Payment of Fees (California Government Code Section 50281.1)** The Owner shall pay the City a fee established pursuant to the City’s Master Fee Schedule, for costs related to the preparation and review of the Agreement and related documents **at the time of application.**
- 8) **Binding on Successors and Assigns (California Government Code Section 50281.b.3)** Owner agrees that this Agreement shall be binding upon and inure to the benefit of all parties herein, their heirs, successors in interest, legal representatives, assigns and all persons acquiring any part or portion of the Property, whether by operation of law or otherwise, and that any such person(s) shall have the same rights and obligations under this Agreement.
- 9) **Cancellation (California Government Code Section 50284)** City, following a duly noticed public hearing before the City Council, 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 City’s Local Register of Historic Resources ; or (c) if the Owner(s) have failed to restore or rehabilitate the Property in the manner specified in paragraph 4 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.

- 10) **No Compensation** Owner shall not receive any payment from City in consideration of the obligations imposed under this Agreement, it being recognized and agreed that the consideration for the execution of this Agreement 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 Property's assessed value on account of the restrictions required for the preservation of the Property.
- 11) **Enforcement of Agreement** As an alternative to cancellation of the Agreement for breach of any condition as provided in paragraph 9, City may, in its sole discretion, specifically enforce, or enjoin the breach of the terms of this Agreement. In the event of a default, under the provisions of this Agreement by the Owners, City shall give written notice to Owners by registered or certified mail. If such a violation is not corrected to the reasonable satisfaction of City 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 City 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 City) and hold harmless the City of Oakland, and all of its boards, commissions, departments, agencies, agents, officers, and employees (individually and collectively, the "City") 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:
- a. any accident, injury to or death of a person, loss of or damage to property occurring in or about the Property;
 - b. the use or occupancy of the Property by Owner, its Agents or Invitees;
 - c. the condition of the Property; or
 - d. 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 City's cost of investigating any Claims. Owner shall defend the City 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 City 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 City's right to demand strict compliance with any terms of this Agreement. No acts or admissions by City, or any agent(s) of City, shall waive any or all of City'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 with Alameda County (California Government Code Section 50282.e)** No later than 20 days after execution of this Agreement, the Owner shall record with the county recorder a copy of the Agreement and provide proof of such to the City.
- 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 City with a copy of such notice.
- 19) **Eminent domain (California Government Code Section 50288)** In the event that the Property 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 Agreement, such Agreement shall be canceled and no fee shall be imposed under paragraph 9. This Agreement shall be deemed null and void for all purposes of determining the value of the Property so acquired.
- 20) **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.
- 21) **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.

- 22) **Complete Agreement** This Agreement represents the complete understandings and agreement of the parties and no prior oral or written understandings are in force and effect.
- 23) **Headings** The headings in this Agreement are for reference and convenience of the parties and do not represent substantive provisions of this Agreement.

IN WITNESS WHEREOF, City and Owners have executed the Agreement on the day and year first written above.

Property Owner:

Owner date

Owner date

City of Oakland:

City Administrator date

APPROVED AS TO FORM AND LEGALITY

City Attorney date

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the
day and year first written above.

Notary Public
State of California

EXHIBITS

EXHIBIT A: Legal Description of Property

EXHIBIT B: Schedule of Improvements

EXHIBIT C: The Secretary of the Interior's Standards for Rehabilitation

EXHIBIT D: Minimum Property Maintenance Standards

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2006 NOV 16 PM 4: 26

Approved as to Form and Legality

Mark P. Wolf
Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

**RESOLUTION AMENDING THE HISTORIC PRESERVATION ELEMENT OF
THE GENERAL PLAN TO CLARIFY THE DEFINITION OF QUALIFIED
HISTORIC PROPERTIES FOR MILLS ACT AGREEMENTS TO INCLUDE
HERITAGE PROPERTIES AND TO WAIVE DESIGN REVIEW FEES FOR
HERITAGE PROPERTIES THAT ARE IN A MILLS ACT AGREEMENT**

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 Mills Act Program would meet 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, there are approximately 140 City of Oakland Landmarks and nine designated S-7 and S-20 Historic Districts (consisting of approximately 1,000 properties) which are currently eligible for the Mills Act under Policy 2.6 of the Historic Preservation Element (HPE) of the City of Oakland General Plan, however, Heritage properties, which definitively warrant preservation but which are not Landmarks or Preservation Districts, are not currently eligible for the Mills Act under Policy 2.6(b) of the HPE; and

WHEREAS, amending the HPE to expand the definition of eligible Mills Act properties to include Heritage Properties would facilitate many general plan objectives'; and

WHEREAS, maintaining the physical integrity of Heritage properties, is critical to maintaining the historic character of each Oakland neighborhood; and

WHEREAS, the Mills Act is one of the very few incentives available to owners of historic properties and therefore is likely to encourage property maintenance and restoration/rehabilitation; and

WHEREAS, the Mills Act is 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; and

WHEREAS, the Landmarks Preservation Advisory Board on February 27, 2006 and the Planning Commission on April 5, 2006 unanimously recommended that Heritage Properties (which are the remaining properties of the City of Oakland's Local Register of Historical Resources not currently eligible for the Mills Act program) be eligible for the Mills Act Program and voted to amend the HPE accordingly; and

WHEREAS, the Mills Act will require Landmarks Design Review of the proposed work program to determine that any proposed maintenance or restoration/rehabilitation work is in compliance with the Secretary of Interior's Standards; and

WHEREAS, the Landmarks and Preservation Districts currently receive a design review fee waiver; and

WHEREAS, the Landmarks Preservation Advisory Board on February 27, 2006 and the Planning Commission on April 5, 2006 unanimously recommended that the design review fees be waived for those properties that have applied for a Mills Act Agreement; **Now, Therefore, Be It**

RESOLVED: 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 resolution are categorically exempt from CEQA under CEQA Guidelines Section 15331: Historical Resource Restoration/Rehabilitation; and be it

FURTHER RESOLVED: The City Council amends the General Plan Historic Preservation Element Policy 2.6 as outlined in Attachment A, incorporated by reference herein.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES -

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California

ATTACHMENT A

AMENDMENTS TO THE HISTORIC PRESEVATION ELEMENT

POLICY 2.6: PRESERVATION INCENTIVES

- (a) Landmarks and all properties contributing or potentially contributing to a Preservation District will be eligible for the following preservation incentives:
- ~~(i) Mills Act contracts for reducing property tax assessments;~~
 - ~~(i)(ii) State Historical Building Code and other related alternative codes for older buildings such as the Uniform Code for Building Conservation (UCBC), to provide more flexible construction standards;~~
 - ~~(ii)(iii) conservation easements to reduce property tax assessments and, for National Register properties, to obtain income tax deductions;~~
 - ~~(iii)(iv) broader range of permitted or conditionally-permitted uses;~~
 - ~~(iv)(v) transferable development rights;~~
 - ~~(v)(vi) priority for economic development and community development project assistance and eligibility for possible historic preservation grants for low-income housing;~~
 - ~~(vi)(vii) eligibility for acquisition, rehabilitation, and other development assistance form a possible historic preservation revolving fund or possible Marks historical rehabilitation bond program;~~
 - ~~(vii)(viii) fee waivers or reductions for City permits for demolition, new construction, or alterations.~~
- (b) Properties on the City’s Local Register of Historic Resources (Landmarks, Heritage properties, Preservation Study List properties, all properties contributing to an S-7 or an S-20 Preservation District, and those Potential Designated Historic Properties that have an existing rating of “A” or “B” or are located within an Area of Primary Importance) will be eligible for the following preservation incentives:

(i) Mills Act agreements for reducing property tax assessments;

(ii) Waiver of City Design Review fees for design review associated with a Mills Act Agreement.

~~(c)(b)~~ Compatible new development on vacant noncontributing Preservation District parcels will be eligible for Incentives ~~(iv), (v), (vi) and (vii)~~ (iii), (iv), (v) and (vi). Heritage Properties will be eligible for incentives ~~(ii), (vi) and (vii)~~ (i), (v) and (vi).

Note: Policy 3.3 requires that in order for a Heritage Property to receive Incentives ~~(vi) (v) and (viii)~~ (vi), the Heritage Property in exchange for these incentives must either be designated as a Landmark, included in a Preservation District, or be subject to protective covenants with provisions similar to those for Landmarks and Preservation Districts except for projects which are small scale or do not change exterior appearance.

2006 NOV 16 PM 4: 26

Approved as to Form and Legality

Mark P. Wall
Agency Counsel

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

Resolution No. _____ C.M.S.

RESOLUTION ALLOCATING \$3,500 OF WEST OAKLAND REDEVELOPMENT PLAN FUNDS TO SERVE AS MATCHING FUNDS FOR A JOHANNA FAVROT FUND FOR HISTORIC PRESERVATION GRANT THROUGH THE NATIONAL TRUST FOR HISTORIC PRESERVATION TO FUND AN ECONOMIC ANALYSIS OF THE MILLS ACT PROGRAM.

WHEREAS, the City of Oakland approved to apply for, accept if awarded, and appropriate the Johanna Favrot Fund for Historic Preservation Matching Fund Grant through the National Trust for Historic Preservation for an award of between \$2,500 and \$10,000 (Resolution 78297 C.M.S.);

WHEREAS, the City of Oakland was awarded a Johanna Favrot Fund for Historic Preservation Grant of \$3,500 to be used for consultant services to complete a Mills Act Ordinance and Contract Program for the City of Oakland;

WHEREAS, the Redevelopment Agency has identified designated funds available for historic preservation and specifically for the Mills Act in the West Oakland Redevelopment Planning Fund (9101), West Oakland Base Reuse Organization (88679), Redevelopment Plan – West Oakland Project (P37650) to serve as the local match for this grant; Now, Therefore, Be It

RESOLVED: That the Agency hereby allocates \$3,500 from Redevelopment Planning Fund (9101), West Oakland Base Reuse Organization (88679), Redevelopment Plan – West Oakland Project (P37650) to serve as the required local match for the Johanna Favrot Fund for Historic Preservation Grant; and

FURTHER RESOLVED: That the Agency hereby authorizes the Agency Administrator or her designee to appropriate revenue and make expenditures and take all other actions necessary in accordance with this Resolution.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2006.

PASSED BY THE FOLLOWING VOTE:

AYES -

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
Secretary, Redevelopment Agency of the
City of Oakland, California