

CITY OF OAKLAND

AGENDA REPORT

2011 OCT 27 PM 6:13

TO: Office of the City Administrator
ATTN: Deanna J. Santana
FROM: Community and Economic Development Agency
DATE: November 8, 2011

RE: Resolution Approving Two (2) Mills Act Contracts Between The City Of Oakland And The Properties At 850 Trestle Glen Road (Estimated - \$1,885/Year Property Tax Reduction), And 510 16TH Street (Estimated - \$7,838/Year Property Tax Reduction), Pursuant To Ordinance No. 12987 C.M.S., To Provide These Owners With Property Tax Reductions In Exchange For Their Agreement To Repair And Maintain Their Historic Property In Accordance With Submitted Work Programs

SUMMARY

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

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

Two Mills Act Contract applications have been submitted this year and have been recommended for approval by the Planning Staff and Landmarks Preservation Advisory Board. The first application was for a residential property at 850 Trestle Glen Road, a City of Oakland Heritage Property, was built in 1925 in the Italian Renaissance architectural style. The estimated City share of the total loss of property taxes is \$1,885/year. There would be no loss of redevelopment increment from this application. The work program focuses on seismic and drainage stabilization work as well as reversal of previous architecturally inappropriate work. The second application was for a commercial property at 510 16th Street, a primary contributor to the National Register of Historic Places, Downtown Oakland National Register District, was built in

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1919 in the Beaux Arts derivative of the Gothic architectural style, with Chicago-style elements. The work program focuses on seismic and waterproofing stabilization work, as well as repair of character defining features. Estimated Redevelopment loss of property taxes are \$7,838/year.

FISCAL IMPACT

Approval of this resolution will authorize agreements between the City of Oakland and two property owners with qualified historic properties, through which the owners may receive property tax reductions in exchange for their agreement to invest at least the dollar reduction amount to repair and maintain their historic property in accordance with their submitted work program, incorporated in the contract. Upon receipt of an executed contract, the County Tax Assessor is directed by State law to re-assess the value of the property, which may result in a reduction of property tax, and subsequently a reduction in City/Redevelopment tax revenues. The estimated amount of revenue loss to the City for the 850 Trestle Glen Road year 1 is \$1,885. The property is not in a redevelopment area; in fact, there were no residential submittals in redevelopment areas this year. The estimated amount of revenue loss for 510 16th Street is \$7,838/year with an overall initial net gain of \$18,421/year due to property improvements. The Mills Act revenue loss limits outlined in the Ordinance are \$25,000/year for non-redevelopment area losses, \$250,000 for Redevelopment losses, and \$100,000/building/year for the Central Business District. All estimated revenue losses comply with the Ordinance limits. Tables Ia and IIa below provide projected future losses as requested by the City Council in 2009, for the next five and ten years. There are many variables that will determine actual losses/gains in future years, making the five and ten year analysis speculative at this time. Some of these variables are:

- Number of applications submitted each year: The first year of the Pilot program yielded 21 applications. The second year yielded only six applications. This year yielded two applications.
- Mix of applications submitted each year: Preliminary projections illustrate that larger commercial building net gains would offset smaller residential losses.
- Property size and timing of rehabilitation completion: The work programs submitted and tax revenue estimates for the larger Central Business District commercial buildings indicate a short rehabilitation completion time (1 to 2 years) and a subsequent early tax revenue net gain, even accounting for Mills Act reductions.
- Percentage of loss/gain to actual gross annual tax revenues: previous percentages of the maximum allowed losses indicate a small loss, based on the projected gross tax revenues – 0.02% of the City's annual tax revenues and 0.21% of the Redevelopment Agency's annual tax revenues. The projected loss estimates indicate that the losses are well below the maximums allowed by Ordinance. Tax revenues can increase or decrease in the future years.

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

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

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

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

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

Using a Mills Act Calculator¹ as an estimator to check compliance with limits set out in the Ordinance, the two recommended applications result in the following estimated tax reductions to applicants, Column 5, and to City/Redevelopment revenues, Column 6.

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

A total loss of \$1,885 complies with the City tax revenue loss limit of \$25,000/year.

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

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Table I – Residential Properties not in a Redevelopment Area

1 Mills Act Application Number	2 City (C) (Not in a Redevelopment Area)	3 Current Property Taxes	4 Mills Act Taxes Based on Mills Act Calculator Estimator	5 Change in Taxes (Current – Mills Act Estimated)	6 City Tax Revenue Loss (27.28% of Tax Change) – Year 1
MA11-002	(C)	\$9,793	\$2,884	(\$6,909)	(\$1,885)

**TOTAL City Tax Revenue Loss Year 1 -
 2011 Mills Act Applications**

(\$1,885)

Table Ia lists the estimated cumulative loss of taxes, based on the average of the first four years of Mills Act applications and their respective losses. Since this is year 4 of the program, the second column lists this year's losses for the previous three years' contracts and this year's 1 application. Ten of the applications included are in City areas, not in Redevelopment areas. If the City receives the same average number of applications per year with the same average tax losses, the following columns demonstrate the projected tax revenue losses and the projected number of Mills Act properties for 2016 and 2021.

Table Ia – Tax Revenue Cumulative Losses – based on applications 2008-2011

	2011 Year 4	2016 Year 9	2021 Year 14
City Tax Revenue Losses: Based on Actual 2008-2011 Application Average \$3516.25/year 2.5 apps/yr	(\$35,162.5) 10 parcels	(\$158,231.25) 22.5 parcels	(\$369,206.25) 35 parcels

There were not any residential applications this year in Redevelopment Districts. For informational purposes, in redevelopment areas the City receives approximately 80% of property taxes. The City's Mills Act tax revenue loss limit in redevelopment areas is \$25,000/year in any single redevelopment area with a cumulative limit of \$250,000/year for all redevelopment areas with the exception of the Central Business District.

Although there were not any residential applications in redevelopment areas this year, there were twelve contracts approved between 2008 and 2010. The tax revenue losses from these contracts

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continue each year. Table IIa lists the estimated cumulative loss of taxes, based on the average of the first four years of Mills Act applications. Since this is year 4 of the program, the second column lists this year's losses. Twelve of the applications included are in Redevelopment areas. If the City receives the same average number of applications per year in Redevelopment areas with the same average tax losses, the following columns demonstrate the projected tax revenue losses and the projected number of Mills Act properties for 2016 and 2021.

Table IIa – Tax Revenue Cumulative Losses – based on applications 2008-2011

	2011 Year 4	2016 Year 9	2021 Year 14
Redevelopment Tax Revenue Losses: Based on Actual 2008-2011 Application Average \$7,173/year 3 apps/yr	(\$71,730) 12 parcels	(\$322,785) 27 parcels	(\$753,165) 42 parcels

Table III describes the property tax revenues of the one application in the Central Business District, a redevelopment area. The table demonstrates that the current taxes are very low due to vacancy or an underutilized property. In many cases, the Mills Act estimated taxes, typically significantly below current taxes, are very close to the current taxes.

A Mills Act Contract was a contributing factor in the decision to purchase this property, along with qualifying for Federal Historic Tax Credits. The current Assessed Value prior to the purchase was so low that the Mills Act property tax amount (\$42,431/year) was higher than current taxes (\$19,405/year) by \$23,026/year. The applicant purchased the building in June 2011. Based on the purchase price, using the Mills Act calculator, property taxes will increase by \$32,803/year, from \$19,405/year to \$52,228/year. The Mills Act calculator estimates that the applicant will receive a property tax reduction of \$9,797/year and the city will lose 80% of that reduction or \$7,838/year. However, despite the Mills Act reduction (which influenced the purchase of this building for rehabilitation), there is a net gain in property taxes of \$23,026/year and the City will receive an overall estimated net gain of 80% of that or \$18,421.

The applicant's Work Program to rehabilitate the building will increase the assessed value and property tax revenues will most likely also increase, giving the City a greater net gain than is currently estimated.

Table III – Centrnl Business District – Large Commercial Property

1 Mills Act Application Number	2 Redevelopment (R) Area	3 Current Property Taxes	4 Mills Act Taxes Based on Mills Act Calculator Estimator	5 Change in Taxes (Current – Mills Act Estimated)	6 Redevelopment Tax Revenue Loss (80% of Taxes) – Year 1
MAI1-001	(Commercial) Before Sale	\$19,405	\$42,431	\$23,026	No Loss ²
	(Commercial) After Sale – 6/11	\$52,228 Note: \$32,823 Total increase over before sale	\$42,431	(\$9,797) \$23,026 Net increase over before sale	(\$7,838) \$18,421 Initial net gain to City

**TOTAL Redevelopment Tax Revenue Loss Year 1 -
 2010 Mills Act Applications**

No Loss

Year 2

\$7,838 Loss
 \$18,421 Net gain

Year 3

\$7,838 Loss
PLUS \$18,421
 Dependent on
 improvements

BACKGROUND

Twenty-one Mills Act Applications were submitted to the City in 2008 for the first year; ten were approved, and seven were recorded with Alameda County. Six applications were submitted in 2009, five complete; six from 2008 were recommended for approval for a total of eleven approved contracts. Nine were recorded with Alameda County. Five applications were submitted in 2010. One of the five 2010 applications was a resubmittal from the first year because estimated Redevelopment revenue loss exceeded the original Program limits. Under the Program’s expanded Redevelopment revenue reduction limits in the Central Business District, this application complied. Five were approved and six were recorded with Alameda County.

² The County Assessor calculates taxes under three methods, including the Mills Act calculation. If the Mills Act calculation tax amount exceeds the current amount, taxes are not raised.

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The sixth application had been approved in 2009, but not recorded. The City currently has a total of 22 Mills Act contracts.

Two Mills Act Applications were submitted to the City this year -- the fourth year of the Mills Act Program. Of the two applications considered this year, one is a City of Oakland Heritage Property and one is listed on the National Register of Historic Places, as a primary contributor to the Downtown National Register Historic District. Of the two applications one is located in the Central District Redevelopment area. The remaining one is not in a Redevelopment area. The 2008 – 2011 Mills Act Applications Map, Geographic Distribution, is attached (*Attachment B*).

The individual applications are further described below.

Landmark Preservation Advisory Board Recommendations – October 17, 2011

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

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

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

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

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At the October 17, 2011 LPAB meeting, the Board passed a MOTION to:

- 1) Recommend the two applications outlined in the staff report for recommendation to the City Council, for the 2011 Mills Act Program;
- 2) Forward the same recommendation to the Planning Commission as in Information Item (as required by the adopted process).

The two Mills Act Contract applications will be presented to the Planning Commission at their November 2, 2011 meeting, as a Director's Report.

KEY ISSUES AND IMPACTS

Staff took a multi-layered approach to review and evaluate the applications for recommendation to the LPAB, including a meeting with each applicant and a site visit to the application property, review of the application materials submitted, the Selection Criteria addressed in the application, and Standards developed and approved by the LPAB in 2008. Much of staff discussion focused on the immediate necessity of the work to deter any further deterioration, visibility of the work being proposed to act as a catalyst for neighborhood revitalization and as a model for the Mills Act Program, neighborhood diversity to spread the program to as many neighborhoods as possible, building type diversity to illustrate the flexibility of the Mills Act for different types of properties and the thoroughness of the application above and beyond being 'Complete.' Listed below are the two Mills Act Contract recommendations.

1 - MA11-001 - 510 16th Street

<i>OCHS Rating:</i>	Bal+, Major Importance, Contingency Rating, Highest Importance Contributor to an Area of Primary Importance
Designated Historic Resource:	Listed on the National Register of Historic Places as a Primary Contributor to Downtown Oakland National Register District
<i>Redevelopment District:</i>	Central District
<i>Council District:</i>	3 (Nadel)

Significance: The Morgan building was built in 1919, originally designed for the East Bay Water Company's offices. William Knowles is the architect who later became highly visible in downtown Oakland with the Athens and Elks Clubs (demolished) and the Roos Brothers Store

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(1501 Broadway), all stylistic descendants of the East Bay Water Building. The architectural style is a Beaux Arts derivative of Gothic and Chicago elements.

The main façade is clad in buff terra cotta, with a 3-bay, 4-tiered stacked vertical block, with skeletal articulation and richly stylized Gothic ornamentation. The ground floor has been totally remodeled; originally it had an ogee-arched main entry in the center bay. The entry has been moved to the right bay. The original upper three-part transomed windows, divided by vertical mullions decorated with engaged spires, have been replaced. However, the curved-corer molded architraves above each bay remains. The arch spandrels are embellished with grapes and grape leaves. The three upper story piers are treated as three stacked tiers of decorative elements. The whole façade is topped with a balustrade with flowing Gothic tracery panels between rectangular posts. A simplified form of the front façade turns the corner.

Architecturally, it is a unique downtown building in its very fine and imaginatively styled Gothic ornament, distinguished by the sculpted character of its high relief. With its skeletal articulation and large horizontal windows, it is also a particularly fine representative of the numerous Chicago-influenced store and office/loft buildings constructed in downtown Oakland in the 1910s and 20s.

Work Program (attached):

- o Selective seismic and code upgrades;
- o Façade terra cotta repair;
- o Waterproofing of non-terra cotta exterior walls;
- o Open up first level entry bay;
- o Minor roof repair;
- o Minor repair of skylights;
- o Water intrusion prevention to existing windows, glass replacement as necessary, repainting of hollow metal frames.

Application Strengths:

- o Stabilization, seismic work;
- o Restoration of character defining features;
- o Conserving materials and energy embodied in existing building;
- o Maintenance of minor wear/tear.

2 - MAI1-002 – 850 Trestle Glen Road

OCHS Rating: D2+, Minor Importance, Contributor to an Area
of Secondary Importance
Redevelopment District: Not in a Redevelopment District
Council District: 2 (Kemighan)

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Significance: Building permits for 850 Trestle Glen Road were filed in 1925. The architectural style is best characterized as simplified Italian–Renaissance. Variations on this style can be seen in many examples along the surrounding streetscape, especially in the 600-900 blocks of Trestle Glen Road, which were developed slightly later than the remainder of Lakeshore Highlands. This tract was given the name Lakeshore Glen/Kelly in 1920. The streetscape is dominated by these simple facades, symmetrically arranged, clad in stucco and decorated with minimal ornamentation.

The major significance of this property is its representation of a historically significant era of residential development in Oakland, when evolving transportation advances, new methods of real estate development, and aesthetic trends combined to create a residential subdivision typology that both reflected national trends and influenced the dominant pattern of residential development in the city.

The introduction of a network of electric trolley systems after 1890 transformed the geographic spread of residential development in Oakland. In 1895, real estate magnate Frank C. Havens joined with the transportation magnate F. M. “Borax” Smith to form the Realty Syndicate, a real estate development company. These men grew their company by amassing land for real estate development adjacent to existing trolley lines and by building trolley lines convenient to potential real estate development. 850 Trestle Glen Road is located in a subdivision filed in 1917 by a newly established company, the Lakeshore Highlands Company, with Wickham Havens, son of Frank C. Havens, as president. This subdivision covered the southern portion of what had been the Sather Estate, where the Realty Syndicate had begun the transformation from parkland to residential settlement in 1904.

To create a distinct residential environment in the Lakeshore Highlands, the Olmsted Brothers were retained. Frederick Law Olmsted Jr. and John Charles Olmsted were designers of national recognition working after the style of their pioneering father, Frederick Law Olmsted, who had designed New York’s Central Park as well as Oakland’s Mountain View Cemetery and some of the nation’s earliest suburban neighborhoods. Adding their own naturalistic emphasis by incorporating existing topography in the development of street plans, the Olmsteds created a suburban typology that has had a lasting effect on American suburban planning. This typology is exemplified in their work in Lakeshore Highlands.

Construction in Lakeshore Highlands captures both the importance of the trolley line, which rolled right past the sales office, and the encroaching importance of automobiles. In a 1917 advertisement for Lakeshore Highlands the Key Routes trolley’s emphasized the metaphorical ability to “fly” residents of Lakeshore Highlands from their new homes to their workplaces in San Francisco. Remnants of the overhead poles that held the power lines for the trains can be seen in the backyard of 850 Trestle Glen Road. However, the importance of the trolley system at

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this time was being challenged by the concurrent rise in automobile ownership. Single and double automobile garages were incorporated alongside the newly constructed homes in Lakeshore Highlands. The original building permit for 850 Trestle Glen Road shows the inclusion of the automobile garage; this was not an afterthought. Constructed at the same time as the house, materials and style of the garage match the house. The garage was an important complementary component of the site plan, as the house is placed slightly to the right in order to more fully accommodate the garage. The garage was not hidden from the streetscape, but placed in an offset location at the left of the house visible directly from the street.

Both nationally and locally, after the turn of the century the model of residential development shifted towards larger developments. The Lakeshore Highlands Company began to purchase larger tracts of land and subdivide them, carving out attractive street plans, basic infrastructure improvements, and individual building sites. These sites could then be sold at a profit, either to independent home-builders, or, more commonly, to larger-scale home building companies which typically constructed several homes in new subdivisions and offered them for sale to individual home buyers. The Lapham Company, established in 1911 and still operating in Oakland today, was one such home-building company and constructed the 850 Trestle Glen Road home.

Homes in Lakeshore Highlands were constructed and intended for the city's "upwardly mobile" class. In order to ensure this demographic, the Lakeshore Homes Association was established. As one of the earliest homeowners associations in the nation, it created and enforced a set of covenants, conditions and restrictions. Design review was also an integral part of the homeowners association's duties.

Work Program (attached):

- o Seismic retrofit
- o Foundation drainage work
- o Reversal of inappropriate windows to wood frame windows
- o Patching and painting of house
- o Reversal of inappropriate garage doors to carriage doors

Application Strengths:

- o Stabilization – seismic and drainage work
- o Reversal of inappropriate work
- o Increasing architectural integrity
- o Timeline priority
- o Neighborhood diversity

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PROGRAM DESCRIPTION

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

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

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

Important aspects of the Mills Act program include:

- The Mills Act Program is a voluntary program.
- The Mills Act contract is between the City and the owner of a designated historic structure.
- The initial contract is for 10 years; at the end of each year the term is automatically extended one year, unless the owner or the city gives notice to not renew the contract. If the notice is given, the contract remains in effect for the balance of the current 10-year contract.
- The Agreement requires that the owner preserve/rehabilitate and maintain cultural, historical and architectural characteristics of the listed history property, as set forth in the Work Program schedule of improvements. In Oakland, the property tax savings are required to be invested back into the property.
- The Agreement provides for periodic inspections, as necessary, to determine the owner's compliance with the terms of the Agreement.
- The penalty for breach of contract is 12.5% of the current property value.
- The contract stays with the property, that is, the contract automatically transfers to each new property owner and the property is not reassessed to its full market value upon sale.

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- Upon receipt of an executed contract, the County Tax Assessor is directed by State law to re-assess the value of the property, which may result in a reduction of property tax.
- The reduction will vary depending on a number of factors. Studies have shown that the largest property tax reductions occur for properties purchased or reassessed in recent years.

SUSTAINABLE OPPORTUNITIES

Economic:

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

Historic preservation or rehabilitation will increase the property value of each Mills Act participant. Analysis demonstrates that the purchase alone of 510 16th Street, a vacant and underutilized building, will provide a net gain in City tax revenues. While other Mills Act property tax revenue losses to the City are minimal, it has been shown in other California cities that Mills Act properties act as catalysts for revitalization in the larger surrounding neighborhood. Overtime, with increased neighborhood property maintenance and enhancement, neighborhood property values will increase and tax revenues will follow.

Environmental:

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

Social Equity:

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

DISABILITY AND SENIOR CITIZEN ACCESS

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

RECOMMENDATION(S) AND RATIONALE

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

510 16th Street
850 Trestle Glen Road

ACTION REQUESTED OF THE CITY COUNCIL

Adopt the Resolution to approve two Mills Act Contracts between the City of Oakland and the properties outlined in this report.

Respectfully submitted,




Walter S. Cohen, Director

Community and Economic Development Agency

Reviewed by:
Eric Angstadt, Deputy Director

Prepared by:
Joann Pavlinec, Planner III

**APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:**


Office of the City Administrator

- Attachments: **A. Ordinance No.12987 C.M.S. (authorizing legislation and model agreement)**
B. 2008 – 2011 Mills Act Applications Map – Geographic Distribution

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FILED
OFFICE OF THE CITY CLERK
OAKLAND

Corrected
APPROVED AS TO FORM AND LEGALITY

Mark P. Walsh
City Attorney

10 JAN 11 AM 11:42
INTRODUCED BY COUNCIL MEMBER DE LUENTE

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

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

WHEREAS, the General Plan Historic Preservation Element Policy 2.6.1 calls for the adoption of a Mills Act contract program, pursuant to Sections 50280-90 of the California Government Code and Section 439.2 of the California Revenue and Taxation Code, to promote historic preservation; and

WHEREAS, establishment of a permanent Mills Act Program would meet numerous General Plan Land Use goals and policies, including housing rehabilitation, preservation of community character and identity, sustainability, commercial and corridor revitalization, and image; and

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

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

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

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

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

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

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

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

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

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

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

SECTION 2. The City Council hereby adopts an expanded and permanent Mills Act Program, as detailed in the December 1, 2009 City Council Agenda Report. There shall be a limit of the program impact on City revenues limited to \$25,000/year, on Redevelopment revenues to \$25,000/year in any single redevelopment area with a cumulative limit of \$250,000/year for ah redevelopment areas with the exception of the Central Business District. h1 the Central Business District, there shall be a hmit of the program impact on Redevelopment revenues to \$100,000/building/year with a cumulative limit of \$250,000/year.

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

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

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

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

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

IN COUNCIL, OAKLAND, CALIFORNIA, JAN - 5 2010

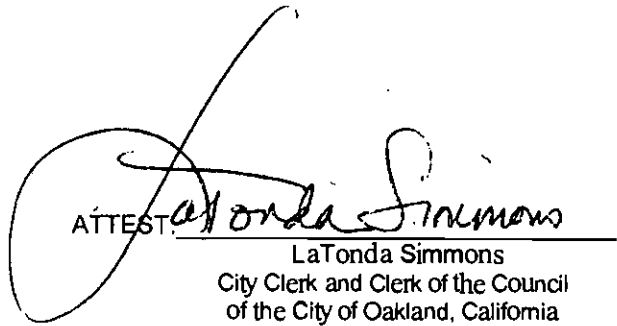
PASSED BY THE FOLLOWING VOTE:

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

NOES- 0

ABSENT- 0

ABSTENTION- 0

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

Introduction Date: DEC - 8 2009

DATE OF ATTESTATION: 1 - 7 - 2010

MPW

NOTICE & DIGEST

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

This ordinance (a) adopts a permanent 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, based on the two-year pilot program via Ordinance No. 12784 C.M.S.; and (b) expands the program so that large commercial properties in the Central Business District can participate in the Program.

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:

EXHIBIT A

- 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
ATfN: 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 Exhibh 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 Chy 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 condhions 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.

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

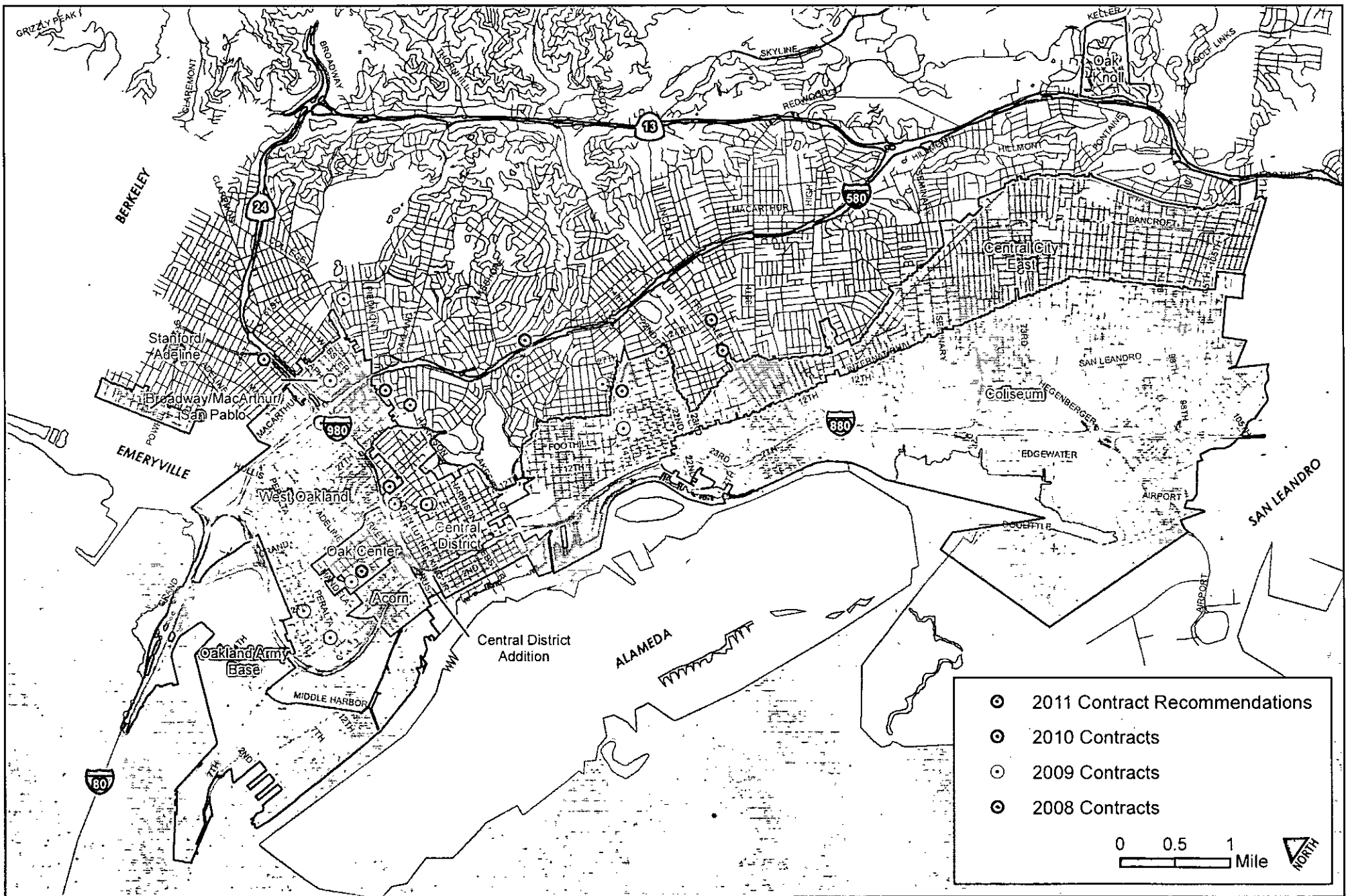
EXHIBITS

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



City of Oakland, CEDA, Strategic Planning
October 13, 2011



Mills Act Contracts & Contract Recommendations

Mark P. Wald
City Attorney

OFFICE OF THE CITY CLERK
OAKLAND
2011 OCT 27 PM 6:13

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION APPROVING TWO (2) MILLS ACT CONTRACTS BETWEEN THE CITY OF OAKLAND AND THE PROPERTIES AT 850 TRESTLE GLEN ROAD (ESTIMATED - \$1,555/YEAR PROPERTY TAX REDUCTION), AND 510 16TH STREET (ESTIMATED - \$7,838/YEAR PROPERTY TAX REDUCTION), PURSUANT TO ORDINANCE NO. 12987 C.M.S., TO PROVIDE THESE OWNERS WITH PROPERTY TAX REDUCTIONS IN EXCHANGE FOR THEIR AGREEMENT TO REPAIR AND MAINTAIN THEIR HISTORIC PROPERTY IN ACCORDANCE WITH SUBMITTED WORK PROGRAMS

WHEREAS, the General Plan Historic Preservation Element Policy 2.6.1 calls for the adoption of a Mills Act contract program pursuant to Sections 50280-90 of the California Government Code and Section 439.2 of the California Revenue and Taxation Code, to promote historic preservation; and

WHEREAS, the Oakland City Council adopted a permanent Mills Act Property Tax Abatement Program for qualified historic properties on January 5, 2010, via Ordinance No. 12987 C.M.S.; and

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

WHEREAS, the City has received two Mills Act contract applications from qualified historic properties. 850 Trestle Glen Road, a City of Oakland Heritage Property, was built in 1925 in the Italian Renaissance architectural style. 510 16th Street, a primary contributor to the National Register of Historic Places, Downtown Oakland National Register District, was built in 1919 in the Beaux Arts derivative of the Gothic architectural style, with Chicago-style elements. The accompanying work programs will maintain and prevent deterioration of the property, revitalize the historic properties, engender pride of neighborhood and community, and act as a catalyst for neighborhood revitalization; and

WHEREAS, at a duly noticed meeting, the Landmarks Preservation Advisory Board on October 17, 2011 recommended the two applications to the City Council for contract approval for the 2011 Mills Act Program; and

WHEREAS, at a duly noticed meeting, the Landmarks Preservation Advisory Board's Mills Act contract recommendations were presented to the Planning Commission as a Director's Report on November 2, 2011;

WHEREAS, at a duly noticed meeting on November 8, 2011, the Community and Economic Development Committee of the City Council recommended the two applications to the City Council for contract approval for the 2011 Mills Act Program; and

WHEREAS, the City Council considered the matter at its November 15, 2011 meeting; now, therefore be it

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

- 1) **850 TRESTLE GLEN ROAD, Oakland Ca**
- 2) **510 16TH STREET, Oakland, CA**

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

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