



# AGENDA REPORT

**TO:** Jestin D. Johnson  
City Administrator

**SUBJECT:** Mills Act Contracts

**FROM:** William A. Gilchrist  
Director, Planning and  
Building Department

**DATE:** October 9, 2023

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City Administrator Approval

Date: Oct 12, 2023

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## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt A Resolution, As Recommended By The Landmarks Preservation Advisory Board, Approving Three (3) Mills Act Contracts Between The City Of Oakland And The Owners Of The Properties At 295 MacArthur Boulevard, 867 Willow Street, And 3220 MacArthur Boulevard, Pursuant To Ordinance No. 12987 C.M.S., To Provide Property Tax Reductions In Exchange For Owners' Agreement To Repair And Maintain Historic Properties In Accordance With Submitted Work Programs And Approving Total City Tax Revenue Reduction Estimated To Be Below \$25,000 Per Year And Making California Environmental Quality Act Findings**

## **EXECUTIVE SUMMARY**

Approval of this resolution will authorize Mills Act agreements between the City of Oakland (City) and the owners of the three following historic properties recommended for approval by the Landmarks Preservation Advisory Board (LPAB): (1) **295 MacArthur Boulevard** (Council District 3, Fife); (2) **867 Willow Street** (Council District 3, Fife); and (3) **3220 MacArthur Boulevard** (Council District 4, Ramachandran).

Under the Mills Act agreements, the Alameda County Assessor will re-assess the property according to the formula established in the Mills Act, which will likely result in a reduction of property taxes for the property. The entire amount of tax reduction must then be spent on maintenance, rehabilitation, and preservation of the property according to an approved and recorded work program. In exchange, the agreement commits an owner to a ten-year work program of improvements that might not otherwise be made. As discussed further below, the City's share of property tax revenue could be reduced by approximately \$7,363 in the first year for the three properties together; however, with the improvements, taxes gradually rise even under the Mills Act formula to reflect those improvements and compensate for the initial revenue reduction.

## **BACKGROUND / LEGISLATIVE HISTORY**

The Mills Act program is a preservation incentive created by the State of California in 1972-76 (Sections 50280-90 of the California Government Code and Section 439.2 of the California

Revenue and Taxation Code) that allows reductions of property tax assessments for historic properties if the owner contracts with the local government to preserve the property, maintain its historic characteristics and, if necessary, restore it.

Over 90 California cities and counties are using the Mills Act as a catalyst for neighborhood preservation and revitalization. While there have been Federal tax credits and local façade improvement grants for commercial properties, the Mills Act program is one of the few preservation incentives that is also available to owners of single- and multi-family residential properties. The California State Office of Historic Preservation states: “The Mills Act is the single most important economic incentive program in California for the restoration and preservation of qualified historic buildings by private property owners.” (See California State Office of Historic Preservation website, at: [https://ohp.parks.ca.gov/?page\\_id=21412](https://ohp.parks.ca.gov/?page_id=21412).)

Adoption of a Mills Act program in Oakland was one of the incentives recommended in the Historic Preservation Element of the Oakland General Plan adopted by City Council in 1994 (Resolution No. 70807 C.M.S.; Action 2.6.1 of the Element). Investigation of a Mills Act program was one of the recommendations in the West Oakland and Central City East Redevelopment plans in the early 2000s, partly to address community concerns about housing, blight, and displacement.

Finding that the Mills Act program meets numerous General Plan Land Use goals and policies, including housing rehabilitation, preservation of community character and identity, sustainability, revitalization, and image, and that the property tax revenue loss was negligible in light of the benefits, Oakland adopted a pilot Mills Act program in 2006-07 (Ordinance No. 12784 C.M.S.) and a permanent program in 2009-10 (Ordinance No. 12987 C.M.S.).

Oakland’s 2009 Mills Act ordinance limits City tax revenue reductions from new contracts to \$25,000 per year outside Redevelopment areas, plus additional revenue reductions in Redevelopment areas (\$25,000 per Redevelopment area per year up to \$250,000, and an additional \$250,000 in the Central Business District). The ordinance provides that Mills Act revenue reductions may exceed the limits with City Council approval. Due to rising Oakland property values, growing interest in the Mills Act program, and the elimination of separate Redevelopment Agency tax revenues, approval was sought and received in 2018, 2019, and 2020 to exceed the \$25,000 “City revenue” limit to accommodate several large-scale adaptive reuse projects. In 2023 the proposed reductions are well below the limit, as they have been for most years of the program.

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 ten years. At the end of each year, the term is automatically extended one year, unless the owner or the City gives notice not to renew. If notice of non-renewal is given, the contract remains in effect for the balance of the current ten-year term.

- The basic State requirement is that the owner must preserve, rehabilitate, and maintain the historical and architectural character of the qualified historical property. The City's program further requires that the entire property tax savings be invested back into the property according to an approved work program that is recorded as part of the contract.
- The contract and assessment formula run with the property, that is, obligations automatically transfer to each new owner and the property is not reassessed to market value upon sale.
- The contract provides for periodic inspections to determine the owner's compliance with the terms of the agreement.
- By State law, the penalty for breach of contract is 12.5 percent of the current property value.
- The Mills Act assessment formula is established by State law and applied by the County Assessor. It applies to ad valorem tax only, not to special assessments or other fees.
- Assessment is based on the income method of appraisal, using actual and comparable rents. The Mills formula adjusts the capitalization rate for "historic property risk" by 2 percent for income properties and 4 percent for owner-occupied residences.
- The largest reductions usually occur for properties bought or reassessed in recent years and at high market values. For existing low assessments, such as those of long-term owners under Proposition 13, taxes cannot increase due to a Mills contract, but they will likely not decrease.

The City's first seven Mills Act contracts were authorized in 2008 and went into effect with the 2009-2010 tax assessment year. To date, 87 contracts have been approved and executed. The number of applications has ranged from one to twelve per year. The proposed three new contracts, if approved, will go into effect for the 2024-2025 tax assessment year and will bring the total to 90. The owners will experience first-year tax reductions estimated to total approximately \$26,989, and because the City's share of ad valorem property taxes is 27.28 percent, the estimated first-year City revenue reduction would be around \$7,363. This estimate is well below the limit of \$25,000 per year City revenue reduction for new Mills Act contracts.

A basic premise of the Mills Act is that the improvements made by reinvesting the tax savings will gradually raise assessed values and compensate for the initial losses, even at the lower Mills Act tax rate. In addition, it is expected that construction work performed under the contracts will support the local economy and that improvements will inspire other projects in the neighborhood. Two early Mills Act projects for large Central Business District properties (Cathedral Building, 1605 Broadway, Mills Act 2010; Girls Inc., 512 16th Street, Mills Act 2011) provided almost immediate revenue gains to the City as these long-underutilized buildings were purchased, improved, and reassessed under the income-based Mills formula. More recently, 4690 Tompkins Avenue, a 40,000 square foot former missionaries' home above Mills College, long a problem property in the neighborhood, joined the program in 2018 and re-opened as 80 apartments with a restored 1920s exterior.

The properties proposed for the 2023 Mills Act contracts are all small-scale residential properties. All are City Designated Historic Properties, a prerequisite for Mills participation. They were identified as significant by the Planning Bureau's citywide Oakland Cultural Heritage Survey as early as the 1980s and were formally designated as Heritage Properties by the Landmarks Preservation Advisory Board (LPAB) on August 7, 2023, in conjunction with the Mills applications. Short summaries of the properties are given below. Photos and more detail can be found in the Landmarks Board staff report (**Attachment A**).

## **ANALYSIS AND POLICY ALTERNATIVES**

This is the sixteenth year of the City's ongoing Mills Act program. The program was adopted in 2007-2010, in part to address the lack of assistance for preservation of owner-occupied homes, in contrast to commercial properties that could at that time benefit from extensive Federal tax credits as well as the City's Façade Improvement grants and other Redevelopment funding. After 2012 and the end of Redevelopment, City home loans and housing rehabilitation programs have been greatly diminished, leaving the Mills Act as a unique though small resource that has been especially well used in West Oakland (22 out of 90 applications since the beginning). Mills Act participants have corrected deferred maintenance, reversed inappropriate modernizations, and carried out major adaptive reuse projects, furthering General Plan and Council goals and policies including housing rehabilitation, neighborhood preservation, sustainability, revitalization, and **housing, economic and cultural security**. The program is open to all types of tax-paying properties, though the assessment formula favors owner-occupied residences.

The 2023 properties are varied, interesting, and well qualified. Construction dates range from 1875 to 1922. Neighborhoods represented are Adams Point, West Oakland, and Dimond/Laurel. In addition to historical significance and physical needs of the buildings, eligibility evaluations by staff and LPAB seek and encourage strengths such as catalyst potential for neighborhood improvement, growth and sharing of technical building experience, and recognition of the many layers of history since these buildings housed their first Oaklanders over 100 years ago.

The applications were all written by the owners themselves, with assistance from staff. They build on research begun in earlier Cultural Heritage Survey phases in West Oakland and Adams Point, on previous Mills Act documents, on hands-on familiarity with the buildings, and on resourceful use of both online and archival research sources. The applications are all well researched and presented, distinctive in style, and make valuable contributions to wider knowledge of Oakland history, buildings, neighborhoods, and research techniques. The complete 2023 Mills Act and Heritage Property applications and staff reports are available online at the August 7, 2023, LPAB page, <https://www.oaklandca.gov/meeting/landmarks-preservation-advisory-board-meeting-14> .

A fourth property, 3400 Broadway, the Lyon Moving and Storage Warehouse, later known as The Saw Mill furniture store, was designated as a Heritage Property by the LPAB at the August 7<sup>th</sup> meeting. However, staff and the LPAB recommended that the associated Mills Act application be deferred and resubmitted in a future year, after development of a more comprehensive work program proportionate to the property's assessed value, expected tax reduction, and potential for public benefit through residential or other adaptive reuse.

*Summary of the Proposed Mills Act Properties for 2023, in order of application submittal*

**295 MacArthur Blvd., McWethy & Greenleaf bungalow court, 1922**

295 MacArthur will be the fifth Mills Act property in the Adams Point neighborhood. It was identified by the Cultural Heritage Survey as appearing eligible for the National Register in 1986. It is a rare and archetypal example of California-Spanish bungalow court imagery in Oakland, distinguished by its solid materials, decorative detailing, and ingenuity in providing both density and individuality during the era of infill and apartment development in Adams Point in the 1920s. Two mirror-image rows of five stucco and tile-roofed cottages face each other across a central driveway that slopes up to the center of the block, giving each unit its own terraced setback and landscaping. Permits were issued in 1922 to (Leroy) McWethy and (Franklin) Greenleaf, one of several full-service design, development, and construction firms active in Oakland in the 1920s, an important pattern often overlooked in the mystique of the star architect. The bungalow court is substantially unaltered but has extensive deferred maintenance. The recent owners' proposed Mills Act work program is a systematic plan for repairs in kind to exterior stucco, windows, and wood trim, and seismic reinforcement and terrace and paving repair on the sloping site, preserving an attractive small multi-unit residential complex that illustrates the importance and high-quality of 1920s builder-designed housing.

**867 Willow St., Geiger-Nisbet house, 1875-76**

A contributor to the National Register-eligible Oakland Point District, 867 Willow is a largely unaltered Victorian working-class cottage on a block of similar small houses and lots with 25' frontage. It was built in 1875-1876 in the railroad boom that transformed the Oakland Point neighborhood at the Central Pacific's western terminus. At least two of the house's early residents worked for the railroad, and its first two owners were women. The main floor was originally a gable-roofed, minimally Italianate-styled four-room house of only 525 square feet that was soon given a full raised basement, an early and common way to enlarge these small houses. Paul Groth and Marta Gutman in *Sights and Sounds: Essays in Celebration of West Oakland* (1997) posit two categories of 1870s working class housing, and this house falls into both. Upstairs the original structure is an "almost-polite house" with public and private rooms and a hall to direct circulation, over an "informal cottage" plan in the basement. The house also expanded to the rear in two stages, beginning with a "tail" for indoor plumbing. The applicant values the intact spaces and additions that record the house's history, and proposes to repair siding and trim, re-create wood sash windows, restore the "almost polite" entry and landing, and seismically upgrade the house with a concrete foundation. This is the 22nd Mills project in West Oakland, with potential to model authenticity as an alternative to the immediate impulse to modernize.

**3220 MacArthur Boulevard, Conrad and Therese Hermle house, c.1900-03**

This large Queen Anne-Colonial house with its wide spreading gable and ornate bays and dormers is a rare link to the Dimond/Laurel neighborhood's rural past. The site was once open Ohlone land where Antonio Maria Peralta grazed cattle. A portion was subdivided in 1900 as Laurel Grove Park, a tract of 20 full blocks of small lots extending from present-day School to Kansas Streets and Maple to Midvale. Sixteen lots on Idaho Street, the entire northwest quarter of a block, were bought by Conrad Hermle and his wife Therese. The Hermles were part of an

intrepid cohort of German pioneers in the Fruitvale-Diamond area. Conrad was a carpenter and may have had a role in building the house, where the Hermles lived by the time of the 1904 Oakland city directory. Soon after, the 1906 San Francisco earthquake and fire sent many San Franciscans to the East Bay, streetcars connected East Oakland to downtown, and in 1909 Oakland annexed unincorporated Brooklyn Township. Parts of the Hermle property were gradually sold off and developed with bungalows and businesses, but the present triple parcel, retains some of the early “farmhouse” character. In 1942 Idaho Street was renamed for General Douglas MacArthur and linked with other east-west streets to form Highway 50, forerunner of the 580 freeway. The applicants conducted research in difficult pre-Annexation sources and will extend the Mills Act to a previously unrepresented neighborhood. Work includes restoration of windows and wood details, roof repair, and foundation, plumbing, and electrical upgrades.

#### *Mills Act Contract Obligations*

The City’s Model Mills Act Agreement (**Attachment B**) spells out obligations and procedures:

... Both Owner and City desire to enter into an Agreement to preserve the Property so as to retain its characteristics of cultural, historical and architectural significance and to qualify the Property for an assessment of valuation pursuant to Section 439.2(a) of the Revenue and Taxation Code of the State of California...

#### **4) Preservation/Rehabilitation and Maintenance of Property (California Government Code Section 50281(b)1) ...**

**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 .... 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 ... and all required review and conditions of the Landmarks Preservation Advisory Board, the Planning Commission, the City Council, and/or the Department of Planning and Building of the City of Oakland.

Participation in the Mills Act program is voluntary for both the property owner and the City. The contract, including the work program, is recorded on the property title. While the contract is in effect, taxes are assessed by the County at the lowest of three possible figures: the rent-based Mills Act formula, factored base year (“Prop. 13”, the likely current assessment), and market value. The three-way comparison is recalculated every year for each participating property. The owner is obligated to invest the entire tax savings in carrying out the work program. The contract, the tax formula, and the work program all remain with the property if it is sold or transferred.

Contracts are for a ten-year term, automatically renewed annually for an additional year. Either the City or the property owner may elect not to renew for any reason, which would terminate the agreement at the end of the current ten-year term (in other words, termination requires ten years’ notice). During the remainder of a non-renewed term, taxes increase gradually to the

normal level. By State law, if a contract is canceled with less than ten years' notice, either at the owner's request or by the City for owner's noncompliance, the owner can be subject to a substantial penalty, 12.5 percent of market value. Otherwise, the contract is in perpetuity. Additional work items are not normally added after the first ten years, beyond the continuing obligation to preserve and maintain the property to the Secretary of the Interior's Standards.

Staff is careful to warn applicants about potential risks and expectations, spending time with each applicant to develop a realistic work program. A few owners, for various reasons, have gone through the entire application and approval process but did not record their executed contracts with the County and, therefore, did not receive the Mills Act tax reduction. However, those properties retain their Heritage Property designations and could apply again.

#### *Mills Act Past Performance and Evaluation*

In the fourteen years from the first contracts in 2007-08, 87 Mills Act contracts in the City have been recorded, from one to twelve properties a year. Participants have corrected deferred maintenance, reversed inappropriate alterations, stabilized roofs and foundations, and carried out full-scale adaptive reuse projects. As was intended when the City created its Mills Act program, the great majority of contracts are for small residential properties. About fifteen larger projects are participating, including apartment and condo buildings and work-live conversions, among them the Bellevue-Staten Apartments in Adams Point and the former Safeway Headquarters at 5701 International Boulevard. The tax benefit has sometimes induced applicants to improve the preservation component in projects not originally conceived as historic.

In 2022, two years into the pandemic, with many Mills Act inquiries but no complete applications, staff took the opportunity to review the program so far. Topics included compliance with recorded work programs, effects of real estate and rent inflation, possible concerns about equity of the tax-based Mills Act assessment formula, participants' satisfaction with the tax outcomes and the program in general, and how to improve ongoing contact with participants. (Please see **Attachment A**, LPAB 2023 Mills Act staff report, for somewhat fuller discussion.)

In spring of 2022 staff emailed or mailed all listed contract holders with copies of their work programs, asking for current contact information, progress reports on the work program, and any comments about the Mills Act program. A small number never responded. Many sent thorough work progress reports and thoughtful comments on the program.

In general, work programs are being carried out, though schedules are affected by availability of labor and materials, changing urgency of specific repairs, rising construction costs, and similar natural causes. Many owners report that tax reductions have become far less than they expected and less than they planned on when designing their work programs. This concern has been raised by owners since about 2016 due to real estate and rental inflation. Several owners in 2022 said they appreciated even the smaller tax benefit as well as the encouragement and recognition for preservation, though one owner was considering withdrawing from the program, citing unrealistic tax expectations versus cost of promised repairs.

Mills Act property owners in Lakeshore-Trestle Glen reported explaining the program to new neighbors and encouraging them to apply. The Lakeshore neighborhood has enthusiastically supported the Mills Act, with 14 contracts that have assisted reversal of misguided window

replacements, structural support on the neighborhood's hilly creekside lots, and much more. Lakeshore is second only to West Oakland, which has 21 contracts, demonstrating the suitability of the program for neighborhoods of widely differing age, building stock, and economic character. Except for the small number of uncommunicative owners, compliance with recorded work programs seems generally achieved though often behind schedule. It usually seems best to extend the schedule, even beyond the initial ten-year contract term, rather than turning to penalties or letting work items drop. After the first ten years, obligations are normally only to preserve historic character, keep up maintenance and repairs, and observe the Secretary of the Department of Interior's Standards.

About 14 properties have changed hands since their original contracts, and two more are currently listed for sale. The contract provides a formal revision procedure that can be especially important whenever property is sold. In 2018, one seller and buyer arranged a site meeting with staff to review the property and update the work program, but usually the recorded contract on the title report is the information new owners receive.

Concerns can be raised about equity of the tax-based Mills Act assessment formula. New owners of high-value properties can benefit from the formula while there is nothing for long-time owners with low assessments (nor for at-risk tax-exempt or publicly owned properties), regardless of significance or restoration needs. Localities cannot change the Mills Act tax formula, though they can define their own standards for eligibility, for example by limiting participation to specific property or project types, locations, uses, or maximum property values. The City has preferred to spread preservation as widely as possible, looking for diversity of location and building type and neighborhood catalyst potential, and using the small Mills Act program as a positive educational tool. Application fees are kept low (no fee for Heritage Property; just over \$600 for Mills Act) and are not collected until a complete and seemingly viable application is submitted. Still, the Mills Act cannot address all of the City's preservation needs. It is important to manage applicants' expectations and to be aware of other potential referrals and resources.

## **FISCAL IMPACT**

A spreadsheet calculator <https://www.oaklandca.gov/search?query=mills+act+calculator> allows applicants to make a *rough estimate of tax outcomes*: **Table 1** below, for the three properties recommended for contracts in 2023, shows estimated tax reductions to applicants and estimated revenue reductions to the City, based on Alameda County tax records and information from applicants. Column 2 lists the 2022-23 assessed value and Column 3 lists current property taxes. Column 4 lists the estimated Mills Act property taxes, applying the income-based assessment formula using the Mills calculator. The formula is based on actual or hypothetical rental income, with an adjustment for "historic property risk." Column 5 lists the difference between current Alameda County property taxes and the estimated Mills Act taxes, i.e., the applicant's projected tax savings, which must all be spent on restoring and maintaining the property. Column 6 lists the estimated reduction of property tax revenue to the City, which is 27.28 percent of the total estimated reduction. Note that the Mills Act reduction applies only to the ad valorem property tax, not to any special assessments or other charges.



**TABLE 1: ESTIMATED TAX RESULTS, 2023 MILLS ACT APPLICATIONS**

1	2	3	4	5	6
Property Address	Assessed Value 2023 (land & imps - county record)	Current ad valorem property tax (county rec.)	Mills ad valorem tax from calculator (based on owner's rent estimate)	Tax reduction to owner (current less Mills estimate)	City Revenue Loss, Year 1 (27.28% of tax change)
295 MacArthur Blvd.	\$2,600,000	\$36,400	\$24,305	(\$12,095)	(\$3,300)
867 Willow Street	\$633,794	\$8,632	\$4,514	(\$4,118)	(\$1,123)
3220 MacArthur Blvd.	\$1,275,000	\$17,558	\$6,782	(\$10,776)	(\$2,940)
<b>TOTAL estimated taxes and reductions</b>		<b>\$62,590</b>	<b>\$35,601</b>	<b>(\$26,989)</b>	<b>(\$7,363)</b>

The calculator provided to applicants and all estimates based on it are subject to the below disclaimer:

*The online calculator that produced these estimates is an interactive spreadsheet based on the Mills Act formula for tax assessments, which uses a modified version of the income method of appraisal. It gives a rough estimate of potential tax savings. The City makes no warranties or representations about the accuracy of the calculator—it is an information tool that applicants may use at their sole risk and does not replace an applicant's 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 at the end of the calendar year.*

The spreadsheet calculator is an update of one originally designed for the City in 2006 by the Economic and Planning Systems consultants to simulate the Mills Act assessment formula. It is a simplified version most suited to uncomplicated residential properties. Constants are updated periodically in consultation with the County Assessor. Some applicants have further refined their calculations based on conversations with the Assessor or on personal research into market rents. Results can only be rough estimates, especially as 2023-24 assessments have not been published at the time of this report and the 2024-25 Mills Act assessments will not be calculated and billed by the County until Fall 2024.

An estimated City revenue reduction of \$7,363 (column 6) for the three properties recommended this year is well below the annual limit of \$25,000 for new contracts. Until 2017, total first-year City revenue loss estimates for new contracts were consistently far below even the \$25,000 limit, ranging from \$1,885 in 2011 to \$10,740 in 2015. In 2018, 2019, and 2020 the basic \$25,000 limit was exceeded, with Council approval, to support rehabilitation of several large and sometimes distressed properties. Such projects are usually completed early in the contract term, and the City benefits from taxable value added by the Mills rehabilitation work even with the Mills tax reduction, in addition to the benefits of returning problem properties to use. These revitalizations might never have been undertaken, or might have been undertaken at a lesser quality, without the Mills Act.

In 2006 the staff report for the Mills Act pilot program stated that the "\$25,000 tax loss amounts to 0.03 percent of the annual [property] tax revenues which total \$85 million." The City's FY

### 2023-25 Proposed Policy Budget

(<https://stories.opengov.com/oaklandca/published/gaQDSrEM->) states “General Purpose Fund property taxes ... are expected to grow from an estimated \$274.5 million in FY 2022-23 to an estimated \$294.2 million in FY 2023-24 and \$308.9 million in FY 2024-25,” more than triple the amount when the City’s Mills Act program was designed (0.03 percent of estimated 2023-24 revenue would be approximately \$88,000).

In the decades since the Mills Act program was created by the California legislature in the early 1970s, and even since the City’s program was adopted in the 2000s, tax outcomes of the Mills Act formula have been affected by the state’s changing real estate market. Rising real estate prices and the Proposition 13 system (1978) under which properties are reassessed to market value only at change of ownership mean that only relatively recent owners are likely to benefit from a Mills Act contract. In addition, because the Mills Act assessment formula is based on the income method of appraisal (using a hypothetical market rent for owner-occupied homes), rising market rents mean that Mills Act savings for an ongoing contract are likely to decrease year by year.

As explained by the Assessor’s office, “higher rents will have an impact on Mills Act restricted assessments. The restricted [Mills Act] assessment will be calculated using market rent as of January 1. An increase in market rents would yield a higher restricted assessment” and therefore a smaller tax reduction for both new and existing contracts. Recent applicants have been advised to put a higher rent per square foot in the calculator (at least \$2.50 to \$3 in 2023, vs. \$1.25 when the calculator was designed in 2006). Lower Mills Act savings for owners would, of course, also mean less revenue reduction for the City.

The City’s share of ad valorem property tax revenue, and therefore of any tax reduction for the owners, is 27.28 percent. Property owners must reinvest their entire tax saving in the approved historic work program, so the City tax reduction leverages almost four times its value in investment in the City’s historic buildings. The proposed 2023 contracts will obligate owners to invest an estimated \$26,989 a year in materials, wages, and other costs of restoration.

### **PUBLIC OUTREACH / INTEREST**

A map from the 2023 Mills Act staff report to the LPAB (**Attachment A**, p. 7) shows the location of Mills Act properties to date. The geographic distribution generally reflects the location of the City’s oldest buildings and neighborhoods, as well as neighborhoods where property prices have risen fastest and potential tax reductions are greatest. Since the beginning of the program, applications and contracts have been most numerous in Council Districts 2 and 3, in West, Central, and North Oakland, Lakeshore, and San Antonio, with far fewer contracts in East Oakland. This year there are two applications from Council District 3 (Adams Point and West Oakland) and one from District 4 (Dimond/Laurel).

When the City’s Mills Act program was initiated in 2006-07, the City mailed information to owners of approximately 10,000 designated or identified historic properties citywide and several hundred real estate agents. The West Oakland and Central City East Redevelopment Project Area Committees were significant vehicles for publicizing the program until the end of Redevelopment in 2012. Outreach now takes place primarily when permit applicants, owners, and real estate agents contact Planning staff about potentially historic buildings. Inquiries may

be permit-related or a search for historical information, or the owner may be looking for assistance with the cost of rehabilitation and maintenance. Unfortunately, long-term owners are not likely to benefit from the Mills assessment formula in the current real estate market.

Staff also receives spontaneous Mills Act inquiries from owners who have heard about the program. Neighbors tell neighbors about the program, neighborhood and preservation organizations and real estate agents publicize it, and staff has announced it at meetings of neighborhood associations, LPAB, and Planning Commission. The annual LPAB meeting where the year's new Heritage Properties and Mills applications are reviewed is usually well attended and inspires a new crop of inquiries. There is also a Mills Act section on the City's historic preservation page, <https://www.oaklandca.gov/topics/mills-act>

Staff helps potential applicants determine whether their properties are a good fit, considering tax status (usually related to length of ownership), type and amount of work the building needs, and the owner's assessment of their personal commitment to restoration, tolerance of risk, and capacity to carry out a long-term work program. Reminders are sent when the application period opens in January. Applicants come to the program with widely differing levels of experience in historical research and building rehabilitation, but (except for large-scale investment projects) all are encouraged to prepare their own Heritage Property and Mills Act applications rather than hiring consultants. This removes financial barriers to joining the program as well as giving owners a deeper understanding of their building, its significance, and its needs. Staff works closely with owners to develop their applications, so that virtually all who decide to apply have been accepted. There is an informal limit of ten contracts per year, based on City tax loss limits and staff capacity, but twelve were submitted and accepted in 2019.

The 2023 Mills Act applications were publicly presented and discussed at LPAB's meeting on August 7, 2023. The LPAB unanimously recommended that the City Council authorize Mills Act contracts for the three applications described above. The applications and LPAB recommendation were presented as an Informational Report at the September 13, 2023 meeting of the Planning Commission.

## **COORDINATION**

This report and legislation have been reviewed by the Office of the City Attorney and the Budget Bureau.

## **SUSTAINABLE OPPORTUNITIES**

***Economic:*** Preservation and rehabilitation help revitalize historic buildings and neighborhoods citywide. Applicants come from all areas of the City, and each single project acts as a catalyst for revitalization of its neighborhood, as Mills Act participants illustrate the benefits of maintaining and restoring properties. As improvements are made, tax revenues follow.

Historic rehabilitation provides opportunities for professional service and construction jobs for the Oakland community, often involving specialty trades, skilled craftspeople, and specialty products and suppliers. By investing tax savings in rehabilitation work, Mills Act projects increase opportunities for this sector of the construction industry.

Older buildings typically provide more affordable housing and commercial space than new construction. The relatively small tax savings under the Mills Act allow property owners with finite means to carry out work in ways that are durable and historically respectful rather than merely affordable.

**Environmental:** Preservation conserves materials and energy embodied in existing building stock, improves healthful living conditions, saves resources, reduces solid waste, and in a broader sense, sets an example for rejecting the throw-away economy.

**Race & Equity:** The City's historic buildings are concentrated in older neighborhoods—especially in West Oakland—that have long housed lower-income and minority residents. Although long-time owners with very low tax assessments receive less benefit from the program, the Mills Act incentive can make properties in these neighborhoods more attractive and affordable for more recent owners, and Mills projects stand as examples and a preservation knowledge base even for non-participant neighbors.

The City's Mills Act fees are kept low and the application is designed to be completed by the property owner (with staff coaching as desired), without need to hire consultants. This lessens financial barriers to entering the program, and also creates lasting expertise within the neighborhood to guide future applicants.

At least for the time being, older buildings and neighborhoods offer “naturally affordable” housing and commercial space to Oaklanders of all ages and ethnicities. The Mills Act program, though small, is one vehicle for maintaining and rehabilitating those essential built resources.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Approval of Mills Act contract applications is Categorical Exempt per CEQA Guidelines Sections 15301 (Existing Facilities); 15305 (Minor Alterations in Land Use Limitations); 15306 (Information Collection); 15308 (Actions by Regulatory Agencies for Protection of the Environment); 15331 (Historical Resource Restoration/Rehabilitation).

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution, As Recommended By The Landmarks Preservation Advisory Board, Approving Three (3) Mills Act Contracts Between The City Of Oakland And The Owners Of The Properties At 295 MacArthur Boulevard, 867 Willow Street, And 3220 MacArthur Boulevard, Pursuant To Ordinance No. 12987 C.M.S., To Provide Property Tax Reductions In Exchange For Owners' Agreement To Repair And Maintain Historic Properties In Accordance With Submitted Work Programs And Approving Total City Tax Revenue Reduction Estimated To Be Below \$25,000 Per Year And Making California Environmental Quality Act Findings.

For questions regarding this report, please contact Betty Marvin, Historic Preservation Planner, at (510) 238-6879 or bmarvin@oaklandca.gov.

Respectfully submitted,



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WILLIAM A. GILCHRIST  
Director, Department of Planning and Building

Reviewed by:  
Edward Manasse, Deputy Director/City Planner  
Bureau of Planning

Prepared by:  
Betty Marvin, Historic Preservation Planner  
Bureau of Planning

Attachments (2):

A. August 7, 2023, LPAB Mills Act Staff Report.

The complete 2023 Mills Act and Heritage Property reports and applications can be seen at <https://www.oaklandca.gov/meeting/landmarks-preservation-advisory-board-meeting-14>

B. Model Mills Act Agreement.

This agreement, along with the "Preservation Work Program and Timeline" (page 2 of each individual Mills Act application), is recorded on the title to each participating property.