



AGENDA REPORT

TO: Jestin D. Johnson
City Administrator

SUBJECT: Mills Act Contracts

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

DATE: September 10, 2024

City Administrator Approval


Jestin Johnson (Sep 23, 2024 12:03 PDT)

Date: Sep 23, 2024

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution, As Recommended By The Landmarks Preservation Advisory Board, Approving Four (4) Mills Act Contracts Between The City Of Oakland And The Owners Of The Properties At 5837-39 Ayala Avenue, 1311 East 27th Street, 384 Bellevue Avenue, And 323-25 24th Street, 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 four historic properties recommended for approval by the Landmarks Preservation Advisory Board (LPAB) at its July 1, 2024, meeting: (1) **5837-39 Ayala Avenue** (Council District 1, Kalb); (2) **1311 East 27th Street** (Council District 2, Fortunato Bas); (3) **384 Bellevue Avenue** (Council District 1, Kalb); and (4) **323-25 24th Street** (Council District 3, Fife). This is the seventeenth year of the City's Mills Act program. This year's applications are all small residential properties, in the Adams Point, Highland Park (San Antonio), Temescal, and Broadway-Valdez neighborhoods.

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 tax. 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. As discussed in this report, the City's share of property tax revenue for the four properties together could be reduced by approximately \$11,275 in the first year. In exchange, the agreement commits an owner to a ten-year work program of improvements that might not otherwise be made, and property taxes gradually rise even under the Mills Act formula as assessments reflect those improvements, which compensates 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 small multiple residential properties. The California State Office of Historic Preservation says, “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.”

https://ohp.parks.ca.gov/?page_id=21412

Adoption of a Mills Act program in the City 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). Consideration of a Mills Act program was one of the recommendations in the West Oakland and Central City East Redevelopment Area 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, the City adopted a pilot Mills Act program in 2006 (Ordinance No. 12784 C.M.S.) and a permanent program in 2009 (Ordinance No. 12987 C.M.S.).

The City’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 up to \$250,000 per year, 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 residential projects. In 2024 the proposed reductions are well below the limit, as they have been for most years of the program.

Important aspects of the City’s Mills Act program include:

- The Mills Act program is a voluntary program.
- The Mills Act contract is between the City and the owner(s) 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 while the tax reduction is phased out.
- By State law, the penalty for breach of contract (as opposed to duly noticed non-renewal) is 12.5 percent of the current fair market value of the property as determined by the county assessor. Such penalty would not be imposed until after a City Council hearing on the subject.
- By State law, the contract provides for periodic inspections to determine the owner's compliance with the terms of the agreement.
- 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 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 market rents. The Mills formula increases 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 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, 89 contracts have been approved and executed. The number of applications has ranged from one to twelve per year. The proposed four new contracts, if approved, will go into effect for the 2025-2026 tax assessment year and will bring the total to 93. The owners may experience first-year tax reductions, potentially estimated to total approximately \$41,329, 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 \$11,275. 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 2024 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 on July 1, 2024, 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

The City's Mills Act program was adopted 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 89 contracts 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 2024 properties are varied, interesting, and well qualified. Construction dates this year are all between 1905 and 1911, in older but not the oldest neighborhoods - Adams Point, Temescal, Highland Park, and Broadway-Valdez (Waverly) - and restoration plans are somewhat similar. In addition to historical significance and physical needs of the buildings, eligibility evaluations by staff and Landmarks Board seek and encourage strengths like potential to inspire 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 a century ago.

The applications were all written by the owners themselves, with drafts reviewed by staff. They build on research begun in earlier Cultural Heritage Survey phases in North Oakland and Adams Point, on previous Mills Act files, on hands-on familiarity with the buildings, and on resourceful use of both online and archival research sources. The applications are all well documented and presented, distinctive in style, and make valuable contributions to wider knowledge of Oakland history, buildings, neighborhoods, and research techniques. The

complete 2024 Mills Act and Heritage Property applications and staff reports are available online at the July 1, 2024, Landmarks Preservation Advisory Board meeting page,

<https://www.oaklandca.gov/meeting/june-3-2024-landmarks-preservation-advisory-board-meeting-2>.

Summary of Proposed Mills Act Properties for 2024, in order of application submittal

5837-39 Ayala Avenue, Vaughn-Wilson house, 1911, Merrill C. Vaughn builder

This archetypal rustic bungalow, with broad overhanging gables, patterned shingle siding, cast cement work on the base, chimney, and porch, elephantine columns, stained glass at the entry, large wood-sash windows, and a big wraparound porch, is one of a cluster of four houses built by contractor Merrill C. Vaughn in fall 1911 at the three-sided corner of Ayala and Howell. No architect is named – designs may be from pattern books or Vaughn’s own. Before the 1906 earthquake exodus from San Francisco the area was a semi-rural destination for amusements at Idora Park, built in 1903 by Borax Smith’s Realty Syndicate to promote streetcar use and real estate sales. The Claremont Home Tract, opened in 1907, filled with Crafts-era houses and is now rated as a potential secondary historic district. In 1941 long-term owners of 5837 Ayala discreetly expanded the attic into an upper flat with a matching added side gable and stair. Owners in the 1960s added three more rooms at the far rear, with less attention to Crafts style. Other than the attic unit the house is unaltered but has considerable wear and deferred maintenance. The work program includes repair of the foundation and cast cement base, porch, and chimney; repair or replacement of 18 double-hung wood-sash windows; dry rot repair on elephantine columns, beam ends, window trim, and eaves, and generally restoring distinctive period materials. This robust Craftsman house illustrates the contribution of builder-developers to Oakland’s neighborhood character, and its evolution illustrates the subtle addition of density into a historic neighborhood context.

1311 East 27th Street, Horton (Johanna) rental house, 1905-07, builder unknown

This two-story Colonial Revival house in East Oakland’s hilly Highland Park neighborhood above Park Boulevard is a distinctive variant of the “Classic Box” described in *Rehab Right* <https://cao-94612.s3.us-west-2.amazonaws.com/documents/oak039424.pdf> It is almost cube-shaped, clad in shingles, and has a symmetrical façade with a columned front porch and extensive Classical detailing, and a hip roof with a unique steep peak at center front. It sits on a small almost square lot that was formerly the back yard of the 13th Avenue home of its enterprising woman developer. Highland Park’s scattered Victorian-era settlement along the 13th Avenue horsecar line included Gertrude Stein’s childhood home, Borax Smith’s estate, and lands of lumber dealer Hugh Hogan, who subdivided the entire block where 1311 East 27th stands and in 1902 developed the corner high-gabled Shingle house bought by Horace and Johanna Horton, a steamfitter and a dressmaker. After Horace was electrocuted in a freak accident at the 13th Avenue house in 1904, Johanna won a \$10,000 settlement from the utility, took in roomers, built two substantial Colonial houses as income properties, and raised a son who became a professional artist. The applicant assembled primary sources into a vivid picture of everyday Oaklanders’ life at this corner and emphasizes the importance of modeling preservation in Oakland’s currently less noticed neighborhoods. The work program includes repair of the foundation, woodwork, and Classical detailing and historically compatible

replacements for altered modern doors and windows. This will be the first Mills Act contract in Highland Park and a visible catalyst project in a prominent hilltop location.

384 Bellevue Avenue, Young (Eugene)-Fearn house, 1908, McCall & Wythe architects

This sophisticated architect-designed Craftsman house will be the sixth Mills Act project in Adams Point. It was identified by the Cultural Heritage Survey in 1986 as appearing eligible for the National Register both individually and as part of a district of Colonial, Beaux-Arts, and Crafts houses of similar age and scale. It has a complex multi-gabled roof with deep overhangs, nested steep-gabled wings facing the street, a mix of patterned shingles and beveled horizontal board siding, mouth-like cutouts on rafter tails and beam ends, and a shallow five-sided front bay with multi-paned wood-sash and leaded windows. Except for minor additions and porch enclosures at the rear the design is substantially intact, but there is much deferred maintenance and wood deterioration. Proposed work includes repairs to foundation and drainage, woodwork and trim, siding and shingles, and the roof, and re-creation of unique projecting redwood gutters. The work program is meticulously researched and described, based on the applicant's custom woodwork experience and research of other McCall buildings. Architect Charles McCall (1878-1948) was born in Oakland and grew up and studied in Britain. Back in Oakland, he became a prominent, prolific, and versatile Bay Area architect of elegant houses, apartments, and civic and commercial buildings including the Lake Merritt Lawn Bowling Clubhouse, the YWCA Blue Triangle Club (Lake Merritt Lodge), the Wholesale Produce Market, the Albert Brown Mortuary, and the Holland and Wakefield office buildings downtown.

323-25 24th Street, Newsom (Sidney B.) flats, 1907, Sidney B. Newsom architect

Sidney Newsom (1877-1942) was a son of Samuel Newsom and nephew of Joseph Cather Newsom, the renowned Newsom Brothers that built the iconic 1884 Carson Mansion in Eureka, Sidney's flats building reflects the dynasty's distinctive blend of functionality and sometimes eccentrically skewed historical references. Amid the new high-rises of the Northgate-Waverly district, it is part of a cluster of three Newsom residential properties on 24th Street at the northwest tip of Lake Merritt that still represent the area's early 20th century heritage. Colonial Revival styling is evident in the flats' blocky shape, symmetrical façade, hip roof, wide enclosed eaves, and classical corbels and dentils. Arts and Crafts or personal touches include the shingled exterior, the angular, elongated brackets below the second-story overhang, and the cantilevered porch roofs without posts or brackets – shown by a 1907 published drawing to be the original form. Aside from considerable wear, visible alterations include crudely replaced window trim and recent vinyl sash and horizontal board siding on the low porch walls. Work plan includes complete re-shingling including the fire-damaged rear wall and restoration of signature façade features including window trim, flower boxes, door overhangs, brackets and corbels. Without changing the exterior, the upper flat will become two separate units, aligning with the Broadway-Valdez area plan's stated goal of adapting historic buildings to meet contemporary needs while preserving historic character.

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

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. As long as 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. Except as described in the next paragraph, the contract is in perpetuity.

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 without penalty requires ten years' notice). During the remainder of a non-renewed term, taxes revert gradually to the non-Mills 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 found subject to a substantial penalty, 12.5 percent of market value. Additional work items are not normally added after the first ten years, beyond completing the existing work program and continuing to preserve and maintain the property to the Secretary of the Interior's Standards.

Staff is careful to warn applicants about potential risks and the need for realistic expectations and works with each applicant to develop the 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 assessment. However, those properties retain their Heritage Property designations and owners could apply again.

Mills Act Past Performance and Evaluation

In the sixteen years from the first contracts, 89 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 program, the great majority of contracts are for small owner-occupied residential properties. About fifteen

larger projects are participating, including apartment and condominium buildings and work-live conversions, among them the Bellevue-Staten condos in Adams Point and the former Safeway Headquarters at 5701 International Boulevard. The Mills benefit has sometimes induced reuse applicants to improve the preservation component in projects not originally planned as historic.

In 2022, two years into the pandemic, with many Mills 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 benefit, participants' satisfaction with the tax outcomes and the program in general, and how to improve ongoing contact with participants. (The Landmarks Preservation Advisory Board August 7, 2023, Mills Act staff report contains a somewhat fuller discussion: <https://cao-94612.s3.us-west-2.amazonaws.com/documents/2-Mills-Act-staff-report-LPAB-8-7-23-signed.pdf>)

Staff emailed or mailed all listed Mills Act property owners with copies of their work programs, asking for current contact information, progress reports on their work, and comments about the Mills program. A small number never responded to repeated notices. Many sent thorough 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 escalating real estate and rental prices. Several owners in 2022 said they appreciated even the smaller tax benefit as well as the official encouragement and recognition for preservation, though one owner was considering non-renewal, citing unrealistic tax expectations vs cost of promised repairs.

Except for the small number of uncommunicative owners, compliance with recorded work programs seems generally good if often behind schedule. It usually seems best to tacitly extend the work completion date beyond the initial ten-year contract term, rather than turning to penalties or letting work items drop. After the first ten-year work program, obligations are normally only to preserve historic character, keep up maintenance and repairs, and comply with the Secretary of the Interior's Standards for Rehabilitation.

About 17 properties have changed hands since their original contracts, and the tax formula, benefits, and obligations run with the property. The contract provides a formal revision procedure that can be important when property is sold. In 2018 one seller and buyer arranged a site meeting with staff to review the property and work program, but usually the recorded contract on the title report is the information new owners receive.

Mills owners in Lakeshore-Trestle Glen reported introducing 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 22 contracts, demonstrating the suitability of the program for neighborhoods of widely differing age, building stock, and economic character.

Concerns can be raised about equity of the State’s Mills Act tax assessment formula tied to market rents. New owners of high-value properties can benefit from the formula while there is nothing for long-time owners with low base-year assessments (nor for at-risk tax-exempt or publicly owned properties), regardless of significance or restoration needs. 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.

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 property values. Oakland’s Mills program was designed to spread preservation as widely as possible, looking for diversity of location and building type and for neighborhood catalyst potential, and using the small Mills program as a positive educational tool. From the beginning, application fees have been kept low in the interest of accessibility (no fee for Heritage designation; \$650 for Mills Act in 2024). However, the number of applications may decrease in the future, especially from lower-income neighborhoods and smaller-scale properties, as the application fee is now set to increase to over \$3000 under the recently adopted Master Fee Schedule.

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 four properties recommended for contracts in 2024, 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 2023-24 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 and hypothetical rental income, with an adjustment for “historic property risk.” Column 5 lists the difference between current 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, 2024 MILLS ACT APPLICATIONS

1	2	3	4	5	6
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Mills Act Application MA2400x	Assessed Value 2024 (land & imp - county record)	Current ad valorem property tax (county rec.)	Mills ad valorem tax from calculator (rent est \$3/sq ft)	Change in taxes (current less Mills estimate)	City Revenue Loss, Year 1 (27.28 percent of tax change)
1, 5837-39 Ayala	\$1,200,000	\$16,466	\$6,364	(\$10,102)	(\$2,756)
2, 1311 E.27th St	\$877,340	\$12,283	\$4,268	(\$8,015)	(\$2,186)
3, 384 Bellevue	\$1,843,000	\$25,289	\$6,844	(\$18,445)	(\$5,032)
4, 323-25 24th St.	\$808,000	\$11,312	\$6,545	(\$4,767)	(\$1,300)
TOTAL estimated taxes / reductions		\$65,350	\$24,021	(\$41,329)	(\$11,275)

The calculator provided to applicants and all estimates based on it are subject to this 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 own legal counsel or 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 Economic and Planning Systems consultants, to simulate the Mills Act assessment formula. It is a simplified version most suited to uncomplicated residential properties. Constants including tax and interest rates are updated annually with information from the County Assessor and State Board of Equalization. Some applicants have refined their calculations based on conversations with the Assessor or on personal research into market rents. Results can only be rough estimated predictions, as 2024-25 assessments have not been published at the time of this report and the initial 2025-26 Mills Act assessments for 2024’s applicants will not be calculated and billed by the County until Fall 2025.

An estimated City first-year revenue reduction of \$11,275 (column 6) for the four 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 the \$25,000 limit, ranging from \$1,885 in 2011 (2 contracts) to \$10,740 in 2015 (7 contracts). In 2018, 2019, and 2020 the basic \$25,000 limit was exceeded, with Council approval, to support rehabilitation and reuse of several large and sometimes distressed properties. Such projects are usually completed and put into service early in the contract term, and the City benefits from taxable value added by the Mills Act rehabilitation work even with the Mills Act tax reduction, in addition to the benefits of returning idle or 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 Fiscal Year (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 2024-25 property tax revenue would be approximately \$92,000).

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 recent owners are likely to benefit from a Mills 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 and each Mills property is reassessed every year, steadily rising market rents mean that Mills Act savings for an ongoing contract are almost certain to decrease year by year. Thus, participants’ tax bills and funds for the promised restoration work can be unpredictable.

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 2024, 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 2024 contracts will obligate owners to invest an estimated \$41,329 a year in materials, wages, and other costs of restoration.

PUBLIC OUTREACH / INTEREST

A map in the 2024 Mills Act staff report to the Landmarks Preservation Advisory Board (**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 and potential tax reductions may be 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 farther East Oakland. This year there are two applications from Council District 1 (Adams Point and North Oakland) and one each from Districts 2 (San Antonio-Highland Park) and 3 (Broadway-Valdez).

When the City's Mills Act program planning 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 State's Mills Act 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, Landmarks Preservation Advisory Board, and Planning Commission. The annual Landmarks Board 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 if 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 lessens 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 number of applications may decrease in the future as the \$650 application fee is set to increase to over \$3000 to cover staff time under the recently adopted Master Fee Schedule.

The four 2024 Mills Act applications were publicly presented and discussed at the Landmarks Preservation Advisory Board's meeting on July 1, 2024. The Landmarks Board unanimously recommended that the City Council authorize Mills Act contracts for all four of the applications described above. The applications and Landmarks Board recommendation were presented as an Informational Report at the July 10, 2024, 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 specialized 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 rehabilitation and repair work in ways that are durable and historically compatible 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 and Equity: None of the properties recommended for 2024 Mills Act contracts is in one of the “most deeply impacted” communities identified in the Environmental Justice and Housing Elements, nor are the majority of the existing 89 participating properties except for the 22 in West Oakland, but a number of policies and actions in the *Racial Equity Impact Analysis for the Housing Element Update*, https://cao-94612.s3.us-west-2.amazonaws.com/documents/Housing-Element-REIA-1.6.23_Final.pdf and its Housing Action Plan (HAP) are congruent with Mills Act goals and benefits. The Mills Act program does not have racial and income information on applicants and participants,

Policy 2.1, Existing housing stock improvement: HAP 2.1.1, Support home rehabilitation programs. The primary impetus for the City’s adoption of a Mills Act program in the early 2000s was specifically to assist rehabilitation of owner-occupied homes for which there was nothing comparable to City and Federal programs for commercial and income properties. The great majority of current Mills contracts are for owner-occupied homes and have accomplished extensive repair and rehabilitation as well as setting an example for other rehab work in their neighborhoods. **HAP 2.1.4, Support historic preservation and rehabilitation**, mentions potential tax reductions, i.e. Mills Act program; California Historical Building Code also supports rehabilitation by reducing costs and impacts on historic features.

Policy 2.2, Preserve affordability of existing homes: HAP actions refer specifically to deed-restricted properties; however, for individual homeowners, a Mills Act tax reduction can support maintenance and repair that make it possible to retain the property. **HAP 2.2.3 and 2.2.7, [Protection and subsidies for residential hotels]:** Many residential hotels are historic resources and in need of rehabilitation and could be excellent Mills Act projects. Owners appear to pursue other forms of assistance in the nonprofit housing development sector and have not sought Mills contracts so far, but this property type could be a good field for outreach.

*Policy 3.2, Create a more diverse mix of homes to meet community needs: **HAP 3.2.1, ...[E]ncourage missing middle and multi-unit housing types in currently single-family-dominated neighborhoods, including flats... and ADUs.** Two of the 2024 Mills Act properties are examples of compatibly adding units to historic buildings in existing neighborhoods. This was considered a special strength in evaluating the qualifications of these two Mills applications. **HAP 3.2.2, Promote and protect live/work housing and HAP 3.2.3, Promote flexibility in adaptive reuse to increase the housing stock.** This year's Mills applications are all for 1- to 2-unit homes and flats, but several existing larger projects have used Mills Act benefits to support live/work conversions and other adaptive reuse, including conversion of the Cathedral Building, 1615 Broadway, from downtown offices to a mix of commercial and residential.*

Policy 3.4, Reform zoning and land use to address community priorities, is beyond the scope of the Mills Act program, but Mills Act preservation projects, one at a time, promote **HAP 3.4.7, Capture the diversity of existing built fabric ... to preserve existing cultural buildings and other elements that provide neighborhood character.**

Policy 5.2, Promote resilient and sustainable development: **HAP 5.2.5, Encourage earthquake-resilient housing.** Earthquake retrofit is a frequent Mills Act work item in all neighborhoods, being both necessary and beyond many owners' ordinary means and beyond the available funds from other programs. **HAP 5.2.6, energy conservation and flood resilience,** has also been included in several Mills Act work programs, not only on sites near sea level but at sites subject to flooding and land movement on Oakland's many hills and creeks.

Policy 5.1, ...**first-time homeownership incentives:** Since the Mills Act tax formula is most favorable to recent buyers, first-time historic homeowners are likely to find the program attractive for addressing repair and rehabilitation needs of their new properties. New owners frequently inquire about the Mills Act, but a first-time homeowner program might benefit from targeted outreach about the Mills Act.

Revitalization and recognition of historic properties supports pride of neighborhood and community, and sometimes directly alleviates blight and hazards. A respected and proud neighborhood is a safer and happier neighborhood, anywhere in the city.

Historic buildings reinforce a community's connection to its past and place. Neighborhood history in the buildings and streetscapes has educational value for all residents and honors the succession of people and cultures that make the neighborhoods what they are. Besides physical preservation, documentation in Heritage Property and Mills Act applications, prepared by local owners themselves, deepens public knowledge of Oakland's many-layered history.

The City's Mills Act fees have historically been kept affordable and the application was designed to be completed by the property owner (with staff coaching as desired), without need to hire consultants. This has lessened financial barriers to entering the program and has also created lasting expertise within the neighborhoods to guide future applicants, residents, and owners.

The City's historic buildings are concentrated in older neighborhoods—especially West Oakland—that have long housed lower-income residents and have generally offered less access to opportunity. Although long-time owners with very low tax assessments receive no direct benefit from the program, the Mills Act incentive can make restoring properties in these

neighborhoods more attractive and affordable for newer owners, and Mills projects stand as examples and a preservation knowledge base even for non-participating neighbors.

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 Categorically 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 Four (4) Mills Act Contracts Between The City Of Oakland And The Owners Of The Properties At 5837-39 Ayala Avenue, 1311 East 27th Street, 384 Bellevue Avenue, And 323-25 24th Street, 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 anmarvin@oaklandca.gov.

Respectfully submitted,



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.** July 1, 2024, Landmarks Preservation Advisory Board Mills Act Staff Report.
The complete 2024 Mills Act and Heritage Property reports and applications can be seen at <https://www.oaklandca.gov/meeting/june-3-2024-landmarks-preservation-advisory-board-meeting-2>

- 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.