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OFFICE OF THE CITY CLERK
OAKLAND

2017 OCT 12 PM 3:32

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

SUBJECT: Mills Act Contracts

FROM: William Gilchrist
Director, PBD

DATE: October 2, 2017

City Administrator Approval

Date:

10/12/17

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution, As Recommended By The Landmarks Preservation Advisory Board, Approving Five (5) Mills Act Contracts Between The City Of Oakland And The Properties At 836 Trestle Glen Road (Estimated \$8,669/ Year Property Tax Reduction), 3130 Union Street (Estimated \$294/Year Property Tax Reduction), 1630-32 Myrtle Street (Estimated \$5,285/Year Property Tax Reduction), 783 20th Street (Estimated \$2,255/Year Property Tax Reduction), And 863 Cleveland Street (Estimated \$12,889/Year Property Tax Reduction), 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.

EXECUTIVE SUMMARY

Approval of this resolution will authorize agreements between the City of Oakland and the five historic properties recommended for approval by the Landmarks Preservation Advisory Board at its July 10, 2017, meeting (**Attachment A**). Upon receipt of each property's executed contract, the Alameda County Assessor is directed by State law to re-assess the value of 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 the tax reduction—estimated at \$29,392 total for the five properties—is required to be reinvested in maintenance, rehabilitation, and preservation of the properties according to an approved work program. The estimated initial annual loss of City tax revenue is \$8,017 total for the four properties (27.28 percent of the total estimated tax reductions). Unless contracts are terminated, properties remain subject to the Mills Act assessment formula in perpetuity. Since the Mills Act contract commits an owner to a ten-year work program of improvements that might not otherwise have been made, taxes gradually rise even under the Mills Act formula to reflect those improvements and lessen the revenue loss.

The recommended Mills Act properties are:

- 836 Trestle Glen Road, MA16-001, residential (Council District 2 - Guillen)
- 3130 Union Street, MA16-002, residential (Council District 3 – Gibson McElhaney)

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1630-32 Myrtle Street, MA16-003, residential (Council District 3 – Gibson McElhaney)
783 20th Street, MA16-004, residential (Council District 3 – Gibson McElhaney)
863 Cleveland Street, MA16-004, residential (Council District 2 – Guillen)

BACKGROUND / LEGISLATIVE HISTORY

The Mills Act program is a preservation incentive adopted by the State of California in 1976 (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.

Approximately 90 California cities are using the Mills Act as a catalyst for neighborhood revitalization. While there are Federal tax credits and local facade grants for commercial properties, the Mills Act program is one of the few incentives available to owners of historic residential properties.

Adoption of a Mills Act program in Oakland was one of the preservation incentives recommended in the Historic Preservation Element of the Oakland General Plan (Action 2.6.1), adopted by City Council in 1994 (Resolution No. 70807 C.M.S.). Investigation of a Mills Act program was one of the mitigations in both the West Oakland and Central City East Redevelopment plans in the early 2000s.

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 (Ordinance No. 12784 C.M.S.) and a permanent program in 2009 (Ordinance No. 12987 C.M.S.) (**Attachment B**).

Oakland's Mills Act ordinance limits City tax revenue losses from new contracts to \$25,000 per year, with the exception of the Central Business District where revenue losses are limited to \$100,000 per building per year, with a cumulative limit of \$250,000 per year. Limits are subject to exceptions at City Council discretion.

Important aspects of the Mills Act program, established by the State legislation and reflected in the Model Mills Act Contract (**Attachment C**), 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 not to renew. If notice of non-renewal is given, the contract remains in effect for the balance of the current 10-year term.

- The penalty for breach of contract is 12.5 percent of the current property value.
- The basic State requirement is that the owner preserve, rehabilitate, and maintain the historical and architectural character of the property. Oakland's program further requires that the property tax savings be invested back into the property according to a work program that is recorded as part of the contract.
- The contract runs with the property, that is, its obligations automatically transfer to each new owner and the property is not reassessed to full market value upon sale.
- The agreement provides for periodic inspections to determine the owner's compliance with the terms of the agreement.
- The tax reduction will vary depending on a number of factors. The largest tax reductions occur for properties purchased or reassessed in recent years and at high market values.

Oakland's first seven Mills Act contracts were adopted in 2008 and went into effect with the 2009-2010 tax assessment year. There are now 44 contracts in effect. The proposed five new contracts will go into effect for the 2018-2019 tax assessment year and will bring the total to 49. The owners will experience tax reductions estimated to total \$29,392, resulting in an estimated City first-year revenue loss of around \$8,017. This is well below the loss limit of \$25,000/year for new Mills Act contracts established in Oakland's Mills Act ordinance. Past years' (2008-16) first-year revenue loss estimates for new contracts have ranged from \$1,885 in 2011 to \$10,740 in 2015, averaging \$4,955 a year (first-year estimates for the 44 properties over the past nine years total \$44,592).

The principle behind the Mills Act is that improvements made by reinvesting the tax savings will gradually raise property values and make up 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 others in the neighborhood. Two Mills Act projects for large Central Business District properties (Cathedral Building, 2010; Girls Inc., 2011) provided almost immediate revenue gains to the City as these long-underutilized buildings were purchased, improved, and reassessed. Figures for small residential properties are more difficult to track, given the relatively short time the program has been in place and the extreme fluctuations in property prices in those years, but an online review of sample tax histories for properties that entered the program from 2008 to 2014 appears to confirm the pattern of a significant reduction followed by gradual increases.

The applications proposed for approval for 2017 Mills Act contracts are all City of Oakland Designated Historic Properties and all are small residential properties. Two are contributors to a designated S-20 historic district (Oak Center, designated in 2002) and three were designated as Heritage Properties by the Landmarks Board on July 10, 2017. Construction dates range from 1883 to 1925. Short summaries of each property follow. Photos and more detail can be found in the Landmarks Board staff report (**Attachment A**).

ANALYSIS AND POLICY ALTERNATIVES

This is the tenth year of Oakland's ongoing Mills Act program. Mills Act participants to date have corrected deferred maintenance, reversed inappropriate modernizations, and carried out full-scale adaptive reuse projects, thereby furthering General Plan goals and policies including housing rehabilitation, neighborhood preservation, sustainability, and revitalization.

Summary of Proposed Properties

836 Trestle Glen Road, MA17-001

This Monterey Revival house was built in 1925, designed by architect Frederick H. Reimers, one of the best known and most prolific Period Revival architects to have lived and worked in Oakland. Eclectic touches like the textured stucco exterior, round-topped front door, and cantilevered balcony create an exotic but harmonious appearance. The asymmetrical, informal composition of this Monterey house is somewhat unusual in a section of Trestle Glen where formal, boxy, Italian designs predominate. The attached garage reflects the influence of the auto industry and how it drove residential architecture, even in transit-rich Trestle Glen. Behind this block is the former Key System right of way, with a trolley pole in 836's back yard. The work program includes foundation work for seismic retrofit and drainage, repair and maintenance of original wood-sash casement windows, front balcony, and roof.

Application Strengths: large-scale maintenance of house in near-original condition; catalyst for neighborhood work; well-planned work program with estimates; fourth participant on 800 block of Trestle Glen, nucleus of potential district; distinctive design by major Oakland architect,

3130 Union Street, Clawson School Day Nursery, MA17-002

This classic California bungalow, with nested low gables, stucco walls, and distinctive A-frame porch columns, was built in 1919-20 as part of a cluster planned for the block at 26th and Myrtle. However, the block was bought for the new Technical High School (later McClymonds). The cottage was moved to Union Street to become "a day nursery... for tots whose parents work during the day" (*Oakland Tribune*, 11/10/1921). Students from shop, art, and home economics classes equipped the nursery and helped with the childcare. The day nursery exemplified important national movements after the First World War: public health, Americanization, child welfare, women's suffrage, and women's increasing employment outside the home. The project lasted about five years, after which the house reverted to residential use. Work program includes foundation, stucco, and termite work; re-roofing; replacing previously altered and deteriorated side/rear windows and inappropriate large front vinyl windows; exterior painting.

Application Strengths: ordinary house with remarkable social history; correcting deferred maintenance and inappropriate alterations; opportunity as neighborhood catalyst; 12th Mills Act project in West Oakland, area targeted in original design of Mills Act program.

1630-32 Myrtle Street, MA17-003

An 1883 Italianate cottage was bought by a female doctor, Winifred Foster, who created the building that is seen today with the assistance of Oakland architect Lawrence Flagg Hyde. The 1926 permit states: "remove present roof from cottage and build top story, 2 store rooms in roof." The flats-style building reflects the expanding needs of the neighborhood. A single, female physician and property owner embodies progressive Oak Center history, and the architect-designed restyling too was forward-looking, not just a mass of utilitarian additions. That the home is a mixture of Italianate and Brown Shingle styles is important in its own right. Details in the recessed entryway and window trim on the south side rear still provide clues to the original Italianate cottage. Work program includes structural stability, drainage, and sitework; roof repair; window repairs or replacement; restoring front door and stair railings; design restoration based on further investigation of building and historic photos.

Application Strengths: recognizes significance of 20th century evolution and social history in Oak Center; correcting deferred maintenance and inappropriate alterations; 13th Mills Act project in West Oakland, 5th in Oak Center S-20 district.

783 20th Street, MA17-004

This Queen Anne-Eastlake house anchors a fragmentary block at the far north edge of the Oak Center S-20 district. It was built in 1888-89 and has distinctive Eastlake design features including the shingle pattern on the upper story, shed window hoods, cutout porch trim, and floral scroll sawn brackets. Early owners were Lena Kelly and family (1890s-1940s), a mother and four daughters who worked as dressmakers and milliners and were active in nearby St. Francis de Sales congregation. Their long-term occupancy probably helped maintain this house in near-original condition. With no serious alterations to correct, the proposed work program addresses deferred maintenance and upkeep of a 130-year-old wooden house: repair and maintenance of roof and gutter, repair wood rot and damage to exterior siding and trim, repair or restore original windows, address drainage issues, and prepare and paint exterior.

Application Strengths: maintenance of vulnerable wooden house components; catalyst for neighborhood and block improvement; 14th Mills Act in West Oakland, 6th in Oak Center S-20.

863 Cleveland Street, MA17-005

This distinctive 1916 craftsman house near Park Boulevard was built by Paul Emile Joseph, a native of Switzerland, for his own residence. Joseph was a carpenter and lumber mill superintendent, and his craftsmanship and artistry are evident throughout the house. It is distinguished by overlapping gable roofs with complex brackets and bargeboards, stucco and patterned shingle exterior, an intriguingly asymmetrical front porch with river rock column bases, extensive stained glass, custom hardware, and exuberant interior built-ins, glass, and woodwork. Unique owner-built houses are a very important property type and pattern. The detailed and labor-intensive cabinetry, stained glass, and choice of hardware express an individuality and love of building that may only be economically possible for a hands-on owner-occupant. Work program includes foundation and concrete work and repair and maintenance of exterior woodwork, window sash, stained glass, hardware, and roof.

Application Strengths: carefully maintains a unique hand-crafted house that is in original condition; potential neighborhood catalyst; geographic diversity—first Mills Act project in Park Boulevard neighborhood

Mills Act Program

Participation in a Mills Act program is voluntary for both the property owners and the City. Contracts are for a 10-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 10-year term (in effect, termination requires 10 years' notice). During the remainder of a non-renewed term, taxes increase gradually to the normal level. The owner is subject to a substantial penalty if a contract is canceled with less than 10 years' notice, either at the owner's request or by the City for owner's noncompliance.

Staff is careful to warn applicants about potential risks, and works with each applicant to develop a realistic work program. So far two Oakland contracts have required adjustment of the work program and schedule: one where a new owner's use of the building differed from that proposed by the original applicant, and one where the owner suffered a long incapacitating illness. In 2016, one application (MA16-003) was withdrawn after submittal because the owner wanted to consider options that might be incompatible with a Mills Act preservation contract.

FISCAL IMPACT

Using the Mills Act Calculator spreadsheet on the City's website for a rough estimate, the recommended contracts for 2017 result in the following estimated tax reductions to applicants and revenue losses to the City. Based on Alameda County records and information from applicants, column 2 lists the current yearly property taxes on the property. Column 3 lists the *estimated* Mills Act property taxes, using a formula based on square footage and a hypothetical rent (approx. \$2.25/square foot). Column 4 lists the difference between the current property taxes and the estimated Mills Act calculated property taxes. The City receives approximately 27.28 percent of property taxes. Column 5 lists the estimated loss of property taxes to the City, which is 27.28 percent of the estimated change in property taxes due to the Mills Act calculation. Note that the Mills Act formula applies to the ad valorem property tax, not to any special assessments or other charges.

1 Mills Act Application Number	2 Current Property Taxes	3 Mills Act Taxes Based on Mills Act Calculator (Estimated)	4 Change in Taxes Current minus Mills Act Taxes (Estimated)	5 City Revenue Loss, Year 1 (27.28% of tax change)
MA17-001	\$12,681	\$4,013	(\$8,669)	(\$2,365)
MA17-002	\$6,630	\$6,568	(\$294)	(\$80)
MA17-003	\$13,822	\$8,537	(\$5,285)	(\$1,441)
MA17-004	\$5,992	\$3,737	(\$2,255)	(\$615)
MA17-005	\$17,520	\$4,631	(\$12,889)	(\$3,516)

TOTAL estimated City tax revenue loss, year 1 (tax year 2018-19) (\$ 8,017)

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The estimated total loss of \$8,017* is well below the City tax revenue loss limit for new Mills Act contracts of \$25,000/year.

Past years' (2008-16) first-year revenue loss estimates for new contracts have ranged from \$1,885 in 2011 to \$10,740 in 2015. It is important to note that over time, improvements made under the work programs are expected to raise property values and make up for the initial losses, even at the lower Mills Act tax rate. Mills Act projects for two large Central Business District properties (Cathedral Building, 1605-15 Broadway/1606-14 Telegraph, 2010; Girls Inc., 512 16th Street, 2011) provided almost immediate revenue gains to the City as these long-underutilized buildings were purchased, improved, and reassessed.

Since the Mills Act assessment formula is based on the income method of appraisal, the current spike in rental prices may mean that Mills Act savings, especially for owner-occupied homes, are proportionately less than in past years. According to staff at the Assessor's office, "higher rents will have an impact on Mills Act restricted assessments. The restricted [Mills Act] assessment this year will be calculated using market rent as of January 1. An increase in market rents would yield a higher restricted assessment." It is not possible to give exact values because assessment is done property by property, but applicants were advised to put a higher rent per square foot into the calculator on the City website (e.g., \$2.25 vs \$1.25 when the calculator was originally designed in 2006-07). Lower Mills Act savings for owners would, of course, also mean less revenue loss for the City.

**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 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.*

PUBLIC OUTREACH / INTEREST

A map at the end of **Attachment A** shows the location of Mills Act properties to date. The geographic distribution generally reflects the location of Oakland's oldest buildings and neighborhoods, and neighborhoods where property prices have risen fastest and the potential tax reductions are greatest. Accordingly, East Oakland is underrepresented.

When the Mills Act program was initiated in 2006-07, staff mailed information to owners of approximately 10,000 designated or identified historic properties citywide and several hundred real estate brokers and agents. The West Oakland and Central City East Redevelopment Project Area Committees were vehicles for publicizing the program until the elimination of California's redevelopment program in 2011-12. Outreach now takes place primarily in person when permit applicants, owners, and real estate agents contact the City.

The 2017 Mills Act applications were publicly presented and discussed at the Landmarks Preservation Advisory Board's regular meeting on July 10, 2017, at which time the Landmarks Board recommended that the City Council authorize Mills Act contracts for all five applicants.

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The applications were also presented as a Director's Report at the July 19, 2017, regular public meeting of the Planning Commission.

COORDINATION

This report and legislation have been reviewed by the Office of the City Attorney and the Controller's Bureau.

PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

The Mills Act agreement provides for periodic inspections to determine owners' compliance with the terms of the agreement and progress on the work program. In the nine years of Oakland's program Mills Act participants have corrected deferred maintenance, reversed inappropriate alterations, stabilized roofs and foundations, and carried out full-scale adaptive reuse projects. Staff has not made a systematic survey of whether the tax savings have met participants' expectations, but there have been no complaints.

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, involving specialty trades, craftspeople, products, and suppliers. By having additional tax savings to invest in rehabilitation work, the Mills Act properties provide opportunities for this sector of the construction industry.

Preservation and rehabilitation will increase the property value for each Mills Act participant. While 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 surrounding neighborhood. Over time, neighborhood property values will increase and tax revenues will follow.

Environmental: Historic preservation or rehabilitation conserves materials and energy embodied in existing building stock, and in a broader sense, sets an example for rejecting the throw-away economy.

Social Equity: Historic preservation and rehabilitation assist in the revitalization of Oakland's 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 set an example by maintaining and restoring properties.

Historic buildings reinforce a community's connection to its past and place, and revitalization of these historic properties can engender pride of neighborhood and community. The relatively small tax savings under the Mills Act allow property owners of modest means to carry out work in ways that are historically appropriate rather than merely affordable. In addition, older buildings typically provide affordable housing and commercial space.

CEQA

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

Adopt A Resolution, As Recommended By The Landmarks Preservation Advisory Board, Approving Five (5) Mills Act Contracts Between The City Of Oakland And The Properties At 836 Trestle Glen Road (Estimated \$8,669/ Year Property Tax Reduction), 3130 Union Street (Estimated \$294/Year Property Tax Reduction), 1630-32 Myrtle Street (Estimated \$5,285/Year Property Tax Reduction), 783 20th Street (Estimated \$2,255/Year Property Tax Reduction), And 863 Cleveland Street (Estimated \$12,889/Year Property Tax Reduction), 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.

For questions regarding this report, please contact BETTY MARVIN, HISTORIC PRESERVATION PLANNER, at (510) 238-6879.

Respectfully submitted,



WILLIAM GILCHRIST
Director, Department of Planning and Building

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

Attachments (3):

- A: July 10, 2017, Landmarks Preservation Advisory Board Staff Report*
- B. Ordinance establishing permanent Mills Act Program (Ordinance No. 12987 C.M.S.)*
- C: 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.*

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6.3	
Location(s): Various	Parcel Number(s): Various
Applicant(s): Various	Owner(s): Various
General Plan: Various	Zoning: Various
Historic Property: Various	Historic District: Various
Case Number(s): Various	Planning Permits: None
Proposal: 2017 Mills Act Contract Applications:	
<ol style="list-style-type: none"> 1) MA17-001: 836 Trestle Glen Road (APN 011-0900-039-56); City Council District 2 2) MA17-002: 3130 Union Street (APN 005-0462-031-00); City Council District 3 3) MA17-003: 1630-32 Myrtle Street (APN 005-0384-019-00); City Council District 3 4) MA17-004: 783 20th Street (APN 003-0047-003-01); City Council District 3 5) MA17-005: 863 Cleveland Street (APN 023-0405-016-00); City Council District 2 	
Environmental Determination: 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 to be Taken: Discuss and select applications to recommend for 2017 Mills Act contracts. Forward to Planning Commission as informational item. Forward recommendations to City Council.	
For Further Information: Contact Betty Marvin (510) 238-6879, bmarvin@oaklandnet.com	

BACKGROUND

The Mills Act is a California state law passed in 1972 that allows a potential property tax reduction for historic properties, using an alternate appraisal formula. The state law establishes certain other parameters such as the ten-year perpetually renewing contract term and penalties for non-fulfillment of the contract. Local governments (city or county) that elect to participate design other aspects of their own programs, such as eligibility and work program requirements. Oakland requires that the property have local historic designation (Landmark, Heritage Property, S-7, or S-20) and commit to spending the amount of the tax savings on eligible improvements that restore or maintain the historic exterior character of the building or its structural integrity.

A two-year pilot Mills Act property tax abatement program was adopted by City Council in November 2006. In 2009 the City Council expanded the program and made it permanent. Currently there are 44 Mills Act Contracts (2008 through 2016; map, Attachment 8) recorded with the County. Under the current ordinance, the program limits impacts on City revenue to \$25,000/year in new contracts, with the exception of the Central Business District. In the Central Business District, the program limits impacts to \$100,000/building/year with a cumulative limit of \$250,000/year. Tax losses may exceed these limits by act of the City Council.

Any property entering into a Mills Act contract with the City must be on the Local Register of Historical Resources. The Local Register is an umbrella category for the most significant historic resources in Oakland, whether designated by the Landmarks Board or identified by the Survey. It includes buildings with Oakland Cultural Heritage Survey ratings of 'A' or 'B', buildings in Areas of Primary Importance, and Designated Historic Properties (DHPs: Landmarks, Heritage Properties, Preservation Study List properties, and properties in S-7 and S-20 districts).

Properties not already formally designated by the Landmarks Board must obtain Heritage Property or other designation.

INTRODUCTION

2017 Mills Act Applications

Mills Act applications are accepted through May of each year, to allow time for processing by the City and recording with the County by December 31. Five Mills Act applications have been submitted this year and are before the Landmarks Preservation Advisory Board for review, representing the West Oakland and Lower Hills neighborhoods. Two are already in a designated S-20 district (Oak Center) and three are recommended for Heritage Property designation at this meeting.

Historic Preservation Staff Review

Selection criteria for Mills Act applications were developed by a Landmarks Board subcommittee and adopted by the Board during the first year of the Mills Act pilot program, to screen and rank applications, especially where there were more applicants than could be accommodated. Evaluation focuses on:

- significance of the property;
- immediate necessity of the work to prevent further deterioration;
- scope of the work in relation to the estimated tax reduction;
- visibility of the work proposed, to act as a catalyst for neighborhood revitalization;
- neighborhood diversity, to spread the program to as many neighborhoods as possible;
- building type diversity, to illustrate use of Mills Act for different types of properties;
- thoroughness of the application above and beyond being minimally complete.

Staff is recommending selection of all five 2017 Mills Act contract applications, as satisfying the applicable criteria.

FINANCIAL IMPACTS - 2017 Mills Act Applications

The Mills Act calculator on the City website indicates estimated tax outcomes (table below). Based on Alameda County records and information from applicants, column 2 lists the current yearly property taxes on the property. Column 3 lists the *estimated* Mills Act property taxes, using a formula based on square footage and hypothetical (\$2.25/square foot) or actual rent. (When the calculator was designed a decade ago, the hypothetical average rent was \$1.25.) Column 4 lists the difference between the current property taxes and the *estimated* Mills Act property taxes. The City receives approximately 27.28% of property taxes. Column 5 lists the estimated loss of property taxes to the City, 27.28% of the change in property taxes due to the Mills Act calculation. Note that the Mills Act formula applies to the ad valorem property tax, not to any special assessments or other charges.

1 Mills Act Application Number	2 Current Property Taxes (county rec.)	3 Mills Act Taxes from Calculator (estimate based on \$2.25/sf rent)	4 Change in Taxes (current less Mills estimate)	5 City Revenue Loss, Year 1 (27.28% of tax change)	6 Year Acquired
MA17-001	\$12,681	\$4,013	(\$8,669)	(\$2,365)	2003
MA17-002	\$6,630	\$6,568	(\$294)	(\$80)	pre-2013
MA17-003	\$13,822	\$8,537	(\$5,285)	(\$1,441)	2016
MA17-004	\$5,992	\$3,737	(\$2,255)	(\$615)	2010
MA17-005	\$17,520	\$4,631	(\$12,889)	(\$3,516)	2016

TOTAL estimated City tax revenue loss, year 1 (tax year 2018-19) (\$8,017)

An estimated loss of \$8,017 is well below the City tax revenue loss limit for new Mills Act contracts of \$25,000/year.

The Mills Act formula's results are affected by changes in the California real estate market since the program was created by the legislature in the 1970s. Recent rapid inflation of real estate prices and the Proposition 13 system under which properties are reassessed to market value only at change of ownership mean that new owners are likely to benefit much more than long-term owners. In addition, because the Mills Act assessment formula is based on the income method of appraisal (using a hypothetical market rent), the current spike in rental prices may mean that Mills Act savings will be less than in past years. According to staff at the Assessor's office, "higher rents will have an impact on Mills Act restricted assessments. The restricted [Mills Act] assessment this year will be calculated using market rent as of January 1. An increase in market rents would yield a higher restricted assessment." It is not possible to give exact values because assessment is done property by property, but applicants were advised to put a higher rent per square foot (\$2.25 vs \$1.25) into the calculator on the City website. Lower Mills Act savings for owners would, of course, also mean less revenue loss for the City.

Disclaimer: The online calculator which produced these estimates is an interactive spreadsheet based on the Mills Act formula for tax assessments, which uses a modified version of the income approach to 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 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.

Next Steps

Following Landmarks Board recommendation at this meeting, the selected Mills Act applications and Board recommendations will be presented to the Planning Commission as an information item, to City Attorney and Budget for review, to City Council for a resolution authorizing the contracts, and to the City Administrator's office for review and signatures. After contract execution by the City and the applicants, contracts must be recorded with the County by the end of the calendar year. Heritage Property applications for the three properties that are not already designated are being reviewed by the Landmarks Board at this meeting. Staff has reviewed the applications and preliminarily determined that the properties are all eligible for Heritage Property designation and Mills Act participation.

MILLS ACT CONTRACT APPLICATIONS**1. MA17-001: 836 Trestle Glen Road (see Attachment 1)
Read (Edward, Mary, Percival) house**

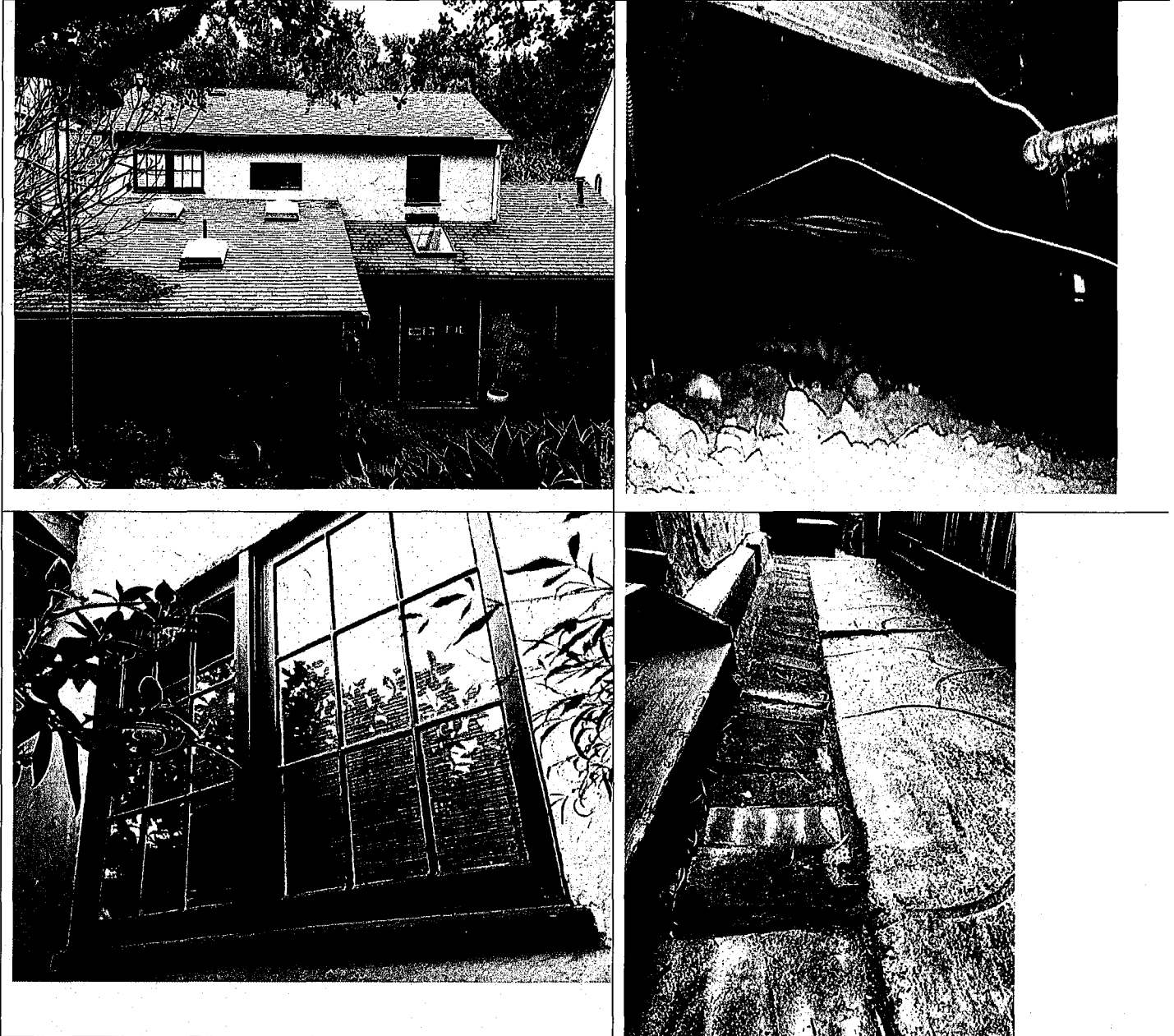
Heritage Property Eligibility Rating: B (25 points)

OCHS Rating: Preliminary (field) survey rating C2+ (C= secondary importance or superior example; contributor to an Area of Secondary Importance)

Significance: 836 Trestle Glen Road is a two-story Monterey Revival house in the large Trestle Glen-Lakeshore ASI. It was built under permit #A5442, dated June 22, 1925, owner E.G. Read, builder Samuel Davis, and architect Frederick H. Reimers, reported construction cost \$4900. Eduardo or Edward G. Read, a foreman for Southern Pacific Co. at the time the house was built, was born in British East India in 1864 and migrated to the United States in 1889. Read family members resided in this home through at least 1941. Frederick Reimers (1889-1961), one of the best known and most prolific Period Revival architects to have lived and worked in Oakland, was a University of California 1915 graduate. This distinctive home is representative of the Spanish Revival style popular during the 1915-1940 period, while the prominent cantilevered balcony marks it as an example of the emerging Monterey version of the style. Spanish Revival is extremely eclectic, with touches like the textured stucco exterior and round-topped front door combined to create an exotic but harmonious appearance. The asymmetrical, informal composition of this Monterey house is somewhat unusual in a section of Trestle Glen where formal, boxy, Italian designs predominate. The attached garage reflects the influence of the auto industry and how it drove residential architecture, even in transit-rich Trestle Glen. Behind this block is the former Key System right of way, with a trolley pole in 836's back yard. This is the fourth house on the 800 block of Trestle Glen to pursue Heritage Property designation, potentially the nucleus of a small designated district within the large ASI that extends from Lake Merritt to the Piedmont border.

Work Program (see Attachment 1):

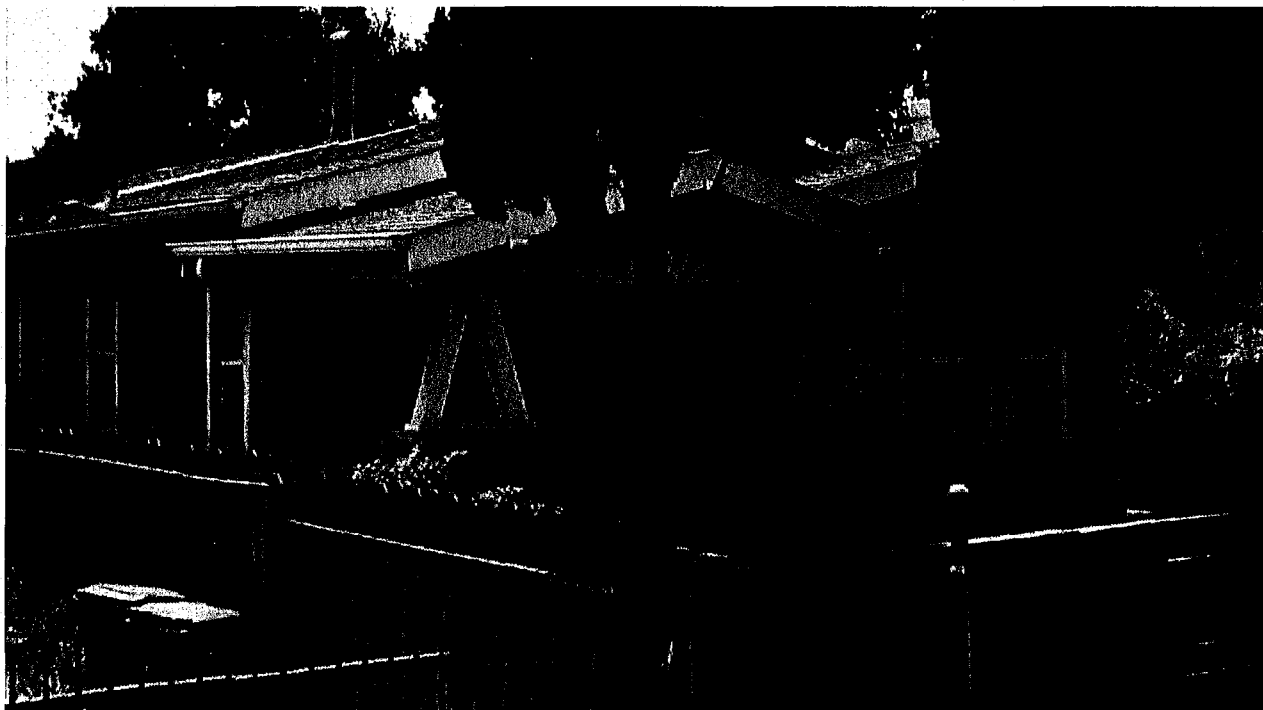
- foundation work: seismic retrofit and drainage
- repair and maintain original wood-sash casement windows
- where repair is not possible, install custom replacement windows
- reinforce/repair front balcony
- replace roof



Application Strengths:

- distinctive Monterey design by major Oakland architect
- large-scale maintenance of house in near-original condition
- well-planned work program with estimates; timely submittal
- fourth participant on 800 block of Trestle Glen, nucleus of potential district

2. **MA17-002: 3130 Union Street** (see Attachment 2)
Clawson School Day Nursery



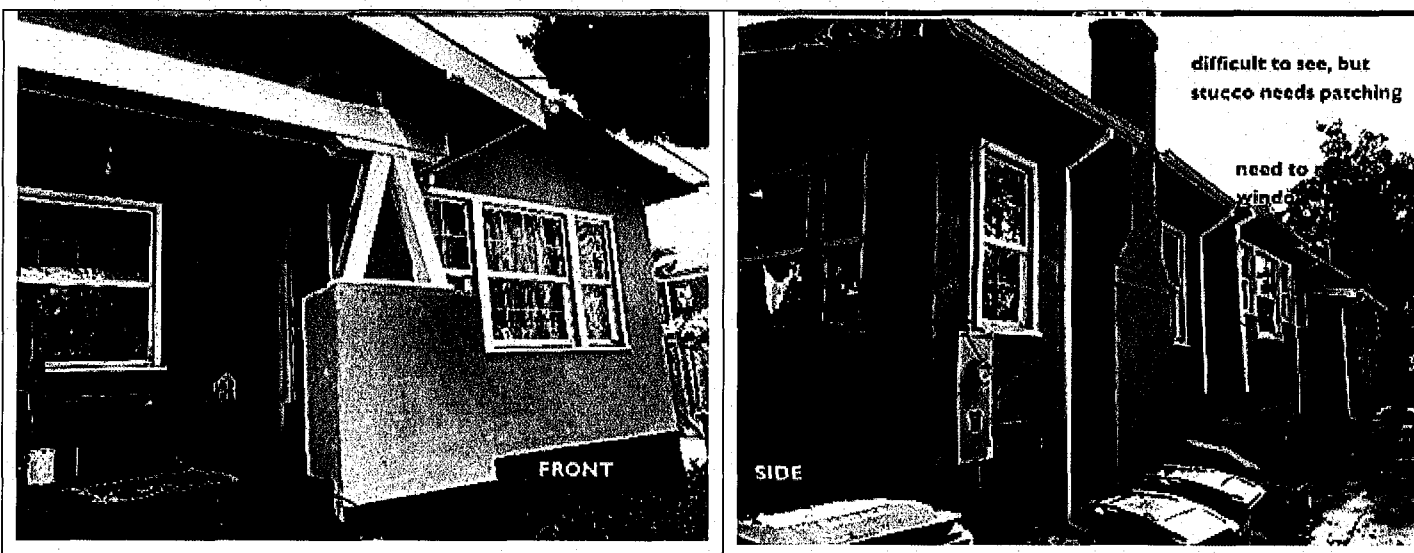
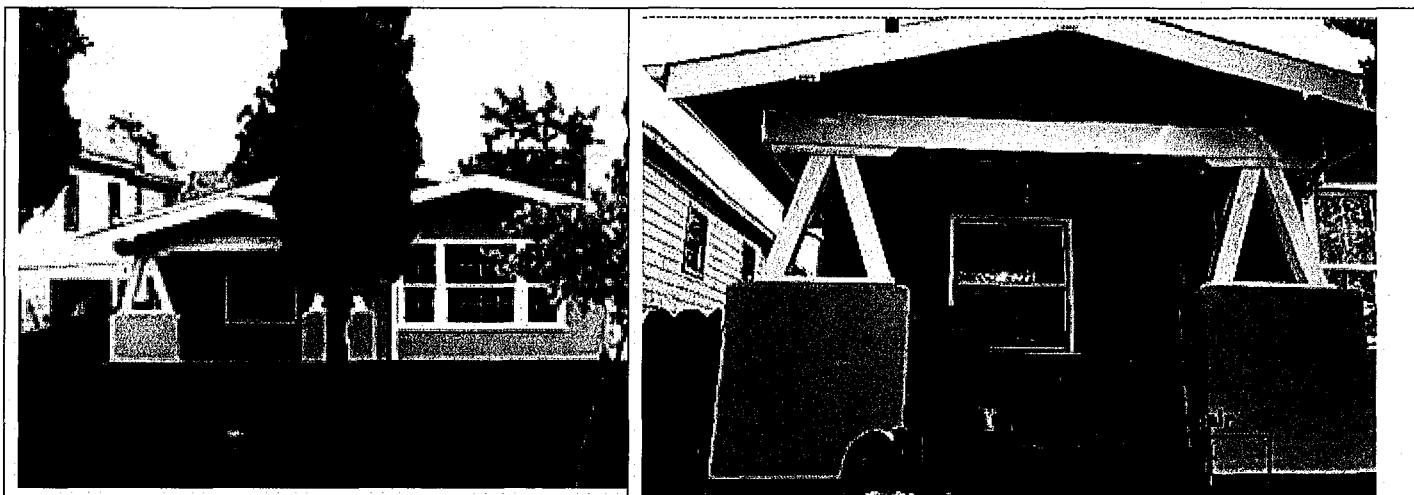
Heritage Property Eligibility Rating: B (27 points); not in a district

OCHS Rating: OCHS intensive survey rating (1987-88) C3 (C = secondary importance or superior example, 3 = not in an identified district)

Significance: 3130 Union Street is a classic California bungalow, with nested low gables, stucco walls, and distinctive A-frame porch columns. It was built in 1919-20 as part of a cluster planned by contractor George Hollenbeck for the former Gill Nursery block between Filbert, Myrtle, 26th, and 28th Streets. Partway into his project, the block was bought by the Board of Education for the new Technical High School (later McClymonds). With funding from the Alameda Child Hygiene Committee of the American Association of University Women, this recently constructed cottage was moved from 2624 Filbert to Union Street to become “a day nursery... for tots whose parents work during the day.” Student shop, art, and home economics classes from Technical High furnished and equipped the nursery, and student paper drives raised funds. Miss Winifred Le Clair was the matron. Miss Le Clair’s mother was the president of the Clawson Mothers’ Club, which originally pushed for a day nursery. The Social Service Club girls from Tech helped with the childcare and learned “how a baby should be entertained, fed and tucked in,” and they exhibited a model of the nursery at the 1922 Health and Safety Exposition. The day nursery exemplified important national movements in the years after the First World War: public health, Americanization, child welfare, women’s suffrage, and women’s increasing employment in industrial jobs outside the home. The project lasted about five years, after which the house reverted to residential use.

Work Program (see Attachment 2):

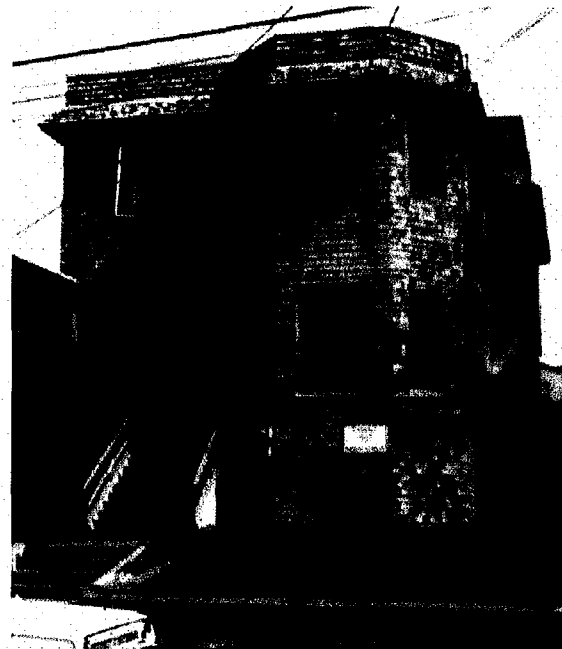
- foundation , stucco, and termite work
- replace roof
- replace previously altered and deteriorated side/rear windows
- replace inappropriate large front vinyl windows
- paint exterior of house



Application Strengths:

- ordinary house with remarkable social history
- correcting deferred maintenance and inappropriate alterations
- opportunity as neighborhood catalyst
- 12th Mills Act project in West Oakland, area targeted in original design of Mills Act program

3. **MA17-003: 1630-32 Myrtle Street, Foster (Winifred) flats** (see Attachment 3)



Redevelopment Agency “before” photo, 1973

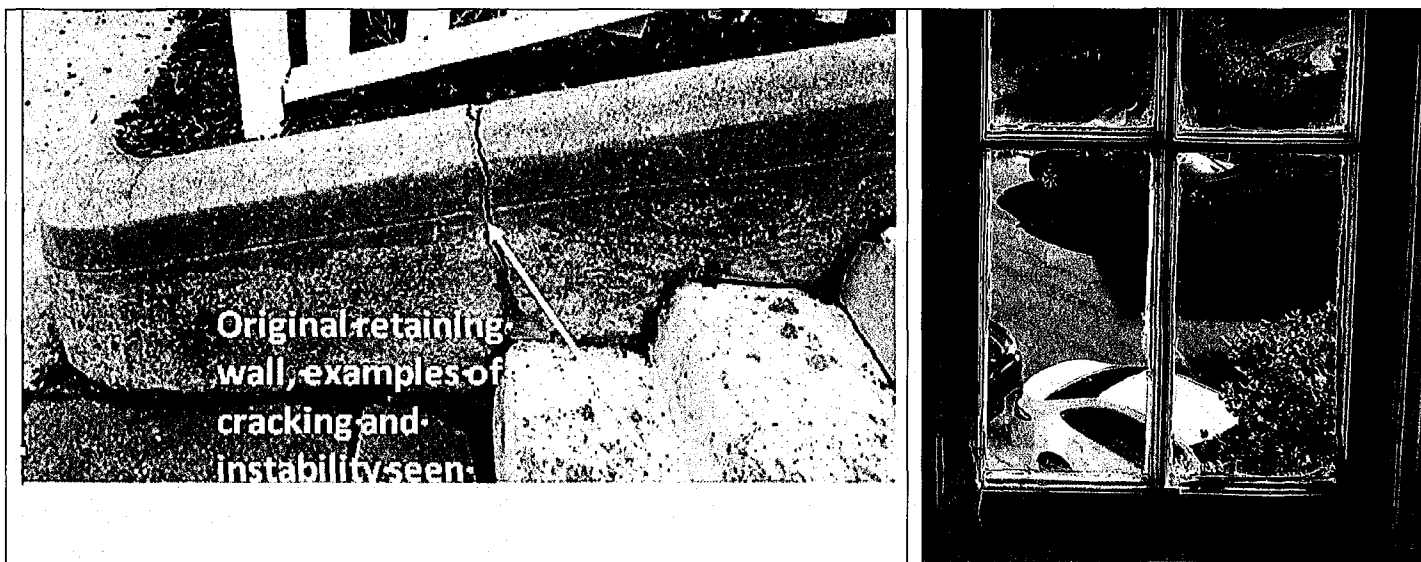
Heritage Property Eligibility: Contributor to designated Oak Center S-20 district

OCHS Rating: Oak Center preliminary survey rating (1986) D1+ (D= minor importance or representative example; 1+, contributes to a primary district)

1630-32 Myrtle Street began as an 1883 cottage, presumably a single story Italianate, owned by Kate Halstead, wife of James Halstead, an incubator salesman. As Oakland grew from approximately 60,000 residents in 1890 to about 210,000 in 1920, so did West Oakland. The lot was split, and the house was bought by a female doctor, Winifred Foster, who created the building that is seen today with the assistance of Oakland architect Lawrence Flagg Hyde. The 1926 permit states “remove present roof from cottage and build top story, 2 store rooms in roof.” Dr. Foster apparently transformed the cottage to be able to see patients out of her home-based medical practice. While not a traditional Victorian, the flats-style building reflects the expanding needs of the neighborhood that was growing despite the 1906 earthquake and 1918 Spanish flu epidemic. A single, female physician and property owner embodies progressive Oak Center history, and the architect-designed restyling too was forward-looking, not just a mass of utilitarian additions. That the home is mixture of Italianate and Brown Shingle styles is important in its own right. The addition even brought a certain coherence to the block, bringing the house’s stature up to meet the larger Victorians around it. Details in the recessed entry way and window trim on the south side rear still provide clues to the original Italianate cottage below.

Work Program (see Attachment 3):

- structural stability, drainage, sitework
- roof repair
- windows - repair or replace to original designs (1973 photo)
- restore entry features including front door and stair railings
- design restoration, based on further investigation of building and historic photos



Application Strengths:

- recognizes significance of 20th century evolution and social history in Oak Center
- 13th Mills Act project in West Oakland, 5th in Oak Center S-20
- correcting deferred maintenance and inappropriate alterations

Discussion / Recommendations:

The work program (year 9) considers removing shingles on the lower floor to reveal more of the original 1883 house. Since the 1926 remodel was a cohesive design and has significance in its own right (Secretary of the Interior’s Standard #4) staff suggests a continuing search for photographic evidence and forensic consultation with a restoration architect and/or contractor on strategy and feasibility. The Oak Center redevelopment rehab appears to have added “Victorian” window trim and watertable moldings not visible in the 1973 photo.

The layered history made this building’s contributor status somewhat uncertain in the early Oak Center surveys (1986, 1992) and district designation (2002), so the Landmarks Board is asked to confirm 1630-32 Myrtle as a contributor to the Oak Center S-20 historic district.

4. **MA17-004: 783 20th Street (see Attachment 4)
Penniman (George)-Kelly (Lena) house, 1888-89**



Heritage Property Eligibility: Designated - contributor to Oak Center S-20 district

OCHS Rating: Oak Center intensive survey rating (1993) C2+ (C= secondary importance or superior example; 2+, contributes to a secondary district)

The Oakland Cultural Heritage Survey identified 783 20th Street as a contributor to the locally important Curtis and Williams Tract (22nd to 15th, Market to Brush), one of several smaller Survey-identified districts combined into the Oak Center S-20 district formally designated in 2002 through neighborhood initiative. This Queen Anne-Eastlake house anchors a fragmentary block at the far north edge of the S-20 district. It was built in 1888-89 according to assessor's block books, and has distinctive Eastlake design features including the shingle pattern on the upper story, shed window hoods, cutout porch trim, and floral scrollsawn brackets. No designer or builder has been identified. Early owners were George Penniman (c.1889-91, not further identified) and Lena Kelly and family (1890s-1940s). The Kellys, mother and four daughters who worked as dressmakers and milliners and were active in nearby St. Francis de Sales congregation for many years, were members of a pioneer family in Amador County. Their long-term occupancy probably helped maintain this house in near-original condition. With no serious alterations to correct, the proposed work program addresses deferred maintenance and upkeep of a 130-year-old wooden house.

Work Program (see Attachment 4):

- roof and gutter repair and maintenance
- repair wood rot and damage throughout exterior siding and trim
- repair or restore original windows
- address drainage issues
- prepare and paint exterior



Application Strengths:

- maintenance of vulnerable wooden house components
- catalyst for neighborhood and block improvement
- 14th Mills Act project in West Oakland, 6th in Oak Center S-20

5. **MA17-005: 863 Cleveland Street** (see Attachment 4)
Joseph (Paul Emile) house



Heritage Property Eligibility Rating: B (29 points)

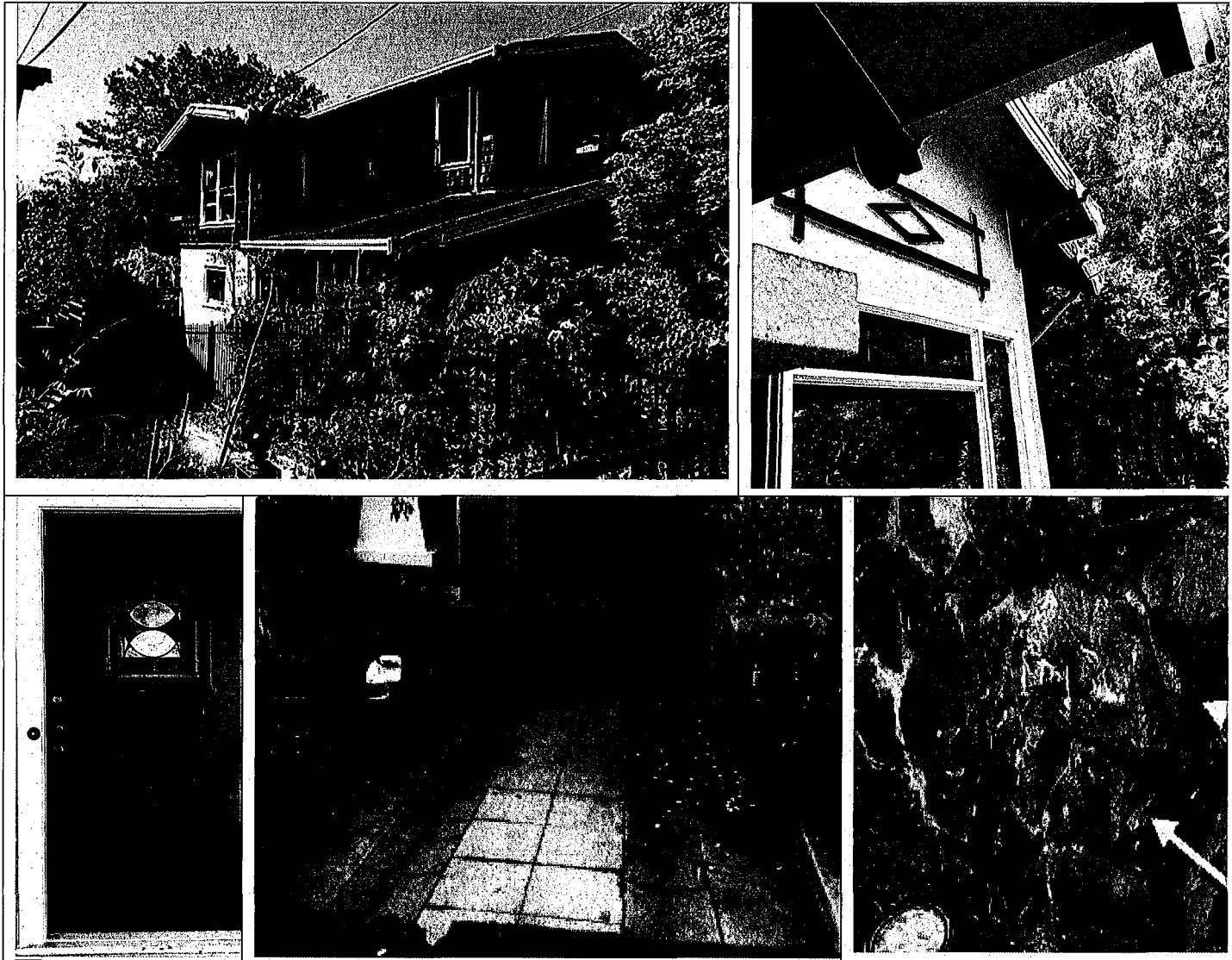
OCHS Rating: Preliminary (field) survey rating C3 (C= secondary importance or superior example; 3 = not in an identified district)

Significance: 863 Cleveland Street is a distinctive craftsman house in Peralta Heights off Park Boulevard. Paul Emile Joseph, a native of Switzerland, built this house for his own residence. By occupation he was a carpenter and lumber mill superintendent, and his craftsmanship and artistry are evident throughout the house. It is distinguished by overlapping gable roofs with complex brackets and bargeboards, stucco and patterned shingle exterior, an intriguingly asymmetrical front porch with river rock column bases, extensive stained glass, custom hardware, and exuberant interior built-ins, glass, and woodwork. It was built under permit #42454, dated June 2, 1916, owner and builder Paul E. Joseph, for a 1 ½ -story 7-room dwelling to cost \$3000.

Unique owner-built houses are a very important property type and pattern, but little known because they are scattered around in ones and twos and not associated with big-name architects. The detailed and labor-intensive cabinetry, stained glass, and choice of hardware express an individuality and love of building that may only be economically possible for a hands-on owner-occupant. While privately-owned interiors are not subject to historic designation, the interiors here are so remarkable in “finish, craftsmanship, and detail,” and so closely related to the exterior in design and workmanship, that they are noted in the point-system evaluation and deserve continued respect and protection. After living here for a few years, Paul Joseph built and moved to a house on Wellington Street in Glenview that shares some features of 863 Cleveland.

Work Program (see Attachment 5):

- foundation and concrete work
- repair shingles and woodwork and paint exterior
- repair and maintain all window sash
- repair stained glass and hardware
- repair roof



Application Strengths:

- carefully maintains a unique hand-crafted house that is in original condition
- potential neighborhood catalyst
- geographic diversity – first Mills Act project in Park Boulevard neighborhood

RECOMMENDED CONDITIONS, ALL PROPERTIES

The Secretary of the Interior's Standards for Rehabilitation are incorporated as conditions in the Mills Act contract (Attachment 6), and will apply whenever work is submitted for permits to carry out work program items. Especially in regard to windows, a significant item in all the proposed work programs, attention is called to Standards 5 and 6:

5. **Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.**
6. **Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.**

The Model Mills Act Agreement 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 of an assessment of valuation pursuant to Section 1161 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) 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.... 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 ..., the Minimum Property Maintenance conditions ... 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

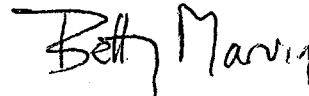
GEOGRAPHIC DISTRIBUTION

Attachment 7 is a map that illustrates geographic distribution of all 49 current and proposed Mills Acts properties. Three applications this year are from West Oakland, a target area from the start of Oakland's Mills Act program, and the other two are from the Lower Hills (Trestle Glen and Cleveland). Several promising inquiries were received from North, Central, and East Oakland, but none of those owners followed up with applications.

RECOMMENDATIONS

1. Receive any testimony from applicants and interested citizens;
2. Discuss and provide recommendations on Mills Act applications for 2017; and
3. Based on the above discussion:
 - a. Recommend all or selected applications to City Council for 2017 Mills Act contracts;
 - b. Forward the recommendations to the Planning Commission as an information item.

Prepared by:



BETTY MARVIN
Historic Preservation Planner

Approved by:



ROBERT MERKAMP
Development Planning Manager

Attachments:

1. Application, work program, and photos: MA17-001: **836 Trestle Glen Road**
2. Application, work program, and photos: MA17-002: **3130 Union Street**
3. Application, work program, and photos: MA17-003: **1630-32 Myrtle Street**
4. Application, work program, and photos: MA17-004: **783 20th Street**
5. Application, work program, and photos: MA17-005: **863 Cleveland Street**
6. Model Mills Act Agreement, including Secretary of the Interior's Standards for Rehabilitation
7. Location map, current and pending Mills Act properties, 2008-2017

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Corrected
APPROVED AS TO FORM AND LEGALITY

10 JAN 11 AM 11:12
INTRODUCED BY COUNCIL MEMBER DELEGUE

Mark P. Walsh
City Attorney

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 all redevelopment areas with the exception of the Central Business District. In the Central Business District, there shall be a limit of the program impact on Redevelopment revenues to \$100,000/building/year with a cumulative limit of \$250,000/year.

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

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

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

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

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

IN COUNCIL, OAKLAND, CALIFORNIA, JAN - 5 2010

PASSED BY THE FOLLOWING VOTE:

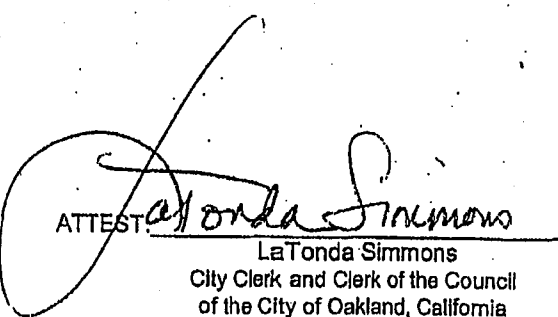
AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST



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

Introduction Date: DEC - 8 2009

DATE OF ATTESTATION: 1-7-2010

ATTACHMENT C

WHEN RECORDED, MAIL TO:

City of Oakland
Bureau of Planning, Historic Preservation
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

MILLS ACT AGREEMENT FOR PRESERVATION OF HISTORIC PROPERTY

This Agreement is entered into this ___ day of _____, 20___, 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. 12784 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 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.

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

- 1) **Effective Date and Term of Agreement (California Government Code Section 50281.a)** The term of this Agreement shall be effective commencing on **December 31, 2016** 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
Bureau of Planning, Historic Preservation
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612-2032

To Owner:

Oakland CA 946--

- 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 (Exhibit C attached and made a part hereof), the Minimum Property Maintenance Standards (Exhibit D attached and made a part hereof), the State Historical Building Code as determined 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 Department of Planning and Building of the City of Oakland.
 - c. If the schedule set out in Exhibit B is not complied with, then City will use the following process to determine whether the Owner(s) are making good faith progress on the schedule of work. Upon City's request, the Owner(s) shall timely submit documentation of expenditures made to accomplish the next highest priority improvement project for the property within the last 24 months. The Owner(s) shall be determined to be in substantial compliance when the expenditures are equal to or greater than the property tax savings provided by the Property being in the Mills Act Program. This schedule set out in Exhibit B shall be revised to reflect the schedule change. The Department of Planning and Building'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 of notice from the City, furnish City with any information City shall require to enable City to determine (i) the Property's present state, (ii) its continuing eligibility as a Qualified Historic Property, and (iii) whether the Owner is in compliance with this Agreement.
- 5) **Destruction through "Acts of God" or "Acts of Nature"**. To the extent authorized by state law, Owner(s) shall not be held responsible for replacement/repair of the Property if it is Damaged or Destroyed through "Acts of

God/Nature”, such as slide, flood, tornado, lightning or earthquake. Damaged or Destroyed means that the property is no longer restorable to a condition eligible for historic designation due to substantial loss of integrity, as determined by an Historic Architect.

- 6) **Inspections (California Government Code Section 50281(b)2).** Owner(s) agrees to permit such periodic examinations/inspections, by appointment, of the interior and exterior of the Property by the City staff, Members of the Landmarks Preservation Advisory Board, representatives of the County Assessor’s Office, representatives of the State Board of Equalization and representatives of the Department of Parks and Recreation as may be necessary to determine the Owner’s compliance with this Agreement. Such examination/inspection shall be upon not less than five (5) days written or oral notice.
- 7) **Payment of Fees (California Government Code Section 50281.1)** The Owner shall pay the City a fee established pursuant to the City’s Master Fee Schedule, for costs related to the preparation and review of the Agreement and related documents **at the time of application.**
- 8) **Binding on Successors and Assigns (California Government Code Section 50281.b.3)** Owner agrees that this Agreement shall be binding upon and inure to the benefit of all parties herein, their heirs, successors in interest, legal representatives, assigns and all persons acquiring any part or portion of the Property, whether by operation of law or otherwise, and that any such person(s) shall have the same rights and obligations under this Agreement.
- 9) **Cancellation (California Government Code Section 50284)** City, following a duly noticed public hearing before the City Council, as set forth in California Government Code Section 50285, may cancel this Agreement if it determines that Owner(s): (a) have breached any of the conditions of the Agreement; (b) have allowed the property to deteriorate to the point that it no longer meets the standards for being on the City’s Local Register of Historic Resources; or (c) if the Owner(s) have failed to restore or rehabilitate the Property in the manner specified in paragraph 4 of this Agreement.

In the event of cancellation, Owner(s) shall be subject to payment of those cancellation fees set forth in California Government Code Sections 50280 et seq., described herein. Upon cancellation, Owner(s) shall pay a cancellation fee of twelve and one-half percent (12 ½%) of the current fair market value of the Property at the time of cancellation, as determined by the County Assessor as though the Property were free of any restrictions pursuant to this Agreement.
- 10) **No Compensation** Owner shall not receive any payment from City in consideration of the obligations imposed under this Agreement, it being recognized and agreed that the consideration for the execution of this Agreement is the substantial public benefit to be derived therefrom and the advantage that

will accrue to Owner as a result of the effect upon the Property's assessed value on account of the restrictions required for the preservation of the Property.

11) **Enforcement of Agreement** As an alternative to cancellation of the Agreement for breach of any condition as provided in paragraph 9, City may, in its sole discretion, specifically enforce, or enjoin the breach of the terms of this Agreement. In the event of a default, under the provisions of this Agreement by the Owners, City shall give written notice to Owners by registered or certified mail. If such a violation is not corrected to the reasonable satisfaction of City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days provided that acts to cure the breach or default may be commenced within (30) days and must thereafter be diligently pursued to completion by Owners, then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owners growing out of the terms of this Agreement, apply to any violation by Owners or apply for such other relief as may be appropriate.

12) **Indemnification** Owner shall indemnify, defend (with counsel reasonably acceptable to City) and hold harmless the City of Oakland, and all of its boards, commissions, departments, agencies, agents, officers, and employees (individually and collectively, the "City") from and against any and all actions, causes of actions, liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses (collectively called "Claims") incurred in connection with or arising in whole or in part from this Agreement, including without limitation:

- a. any accident, injury to or death of a person, loss of or damage to property occurring in or about the Property;
- b. the use or occupancy of the Property by Owner, its Agents or Invitees;
- c. the condition of the Property; or
- d. any construction or other work undertaken by Owner on the Property.

This indemnification shall include, without limitation, reasonable fees for attorneys, consultants and experts and related costs and City's cost of investigating any Claims. Owner shall defend the City from any and all Claims even if such Claim is groundless, fraudulent or false. Owner's obligations under this Paragraph shall survive termination of this Agreement.

13) **Governing Law** This Agreement shall be construed and enforced in accordance with the State of California.

14) **Amendments** This Agreement may be amended in whole or in part only by a written recorded instrument executed by the parties hereto in the same manner as this Agreement.

- 15) **No Waiver** No failure by the City to insist on the strict performance of any obligation of Owner under this Agreement or to exercise any right, power or remedy arising out of a breach hereof, shall constitute a waiver of such breach or of City's right to demand strict compliance with any terms of this Agreement. No acts or admissions by City, or any agent(s) of City, shall waive any or all of City's right under this agreement.
- 16) **Severability** If any provision of this Agreement is determined to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- 17) **Recording with Alameda County (California Government Code Section 50282.e)** No later than 20 days after execution of this Agreement, the Owner shall record with the county recorder a copy of the Agreement and provide proof of such to the City.
- 18) **Notice to State Office of Historic Preservation** The Owner shall provide written notice of the Agreement to the State Office of Historic Preservation within six (6) months of the date of this Agreement, and provide City with a copy of such notice.
- 19) **Eminent domain (California Government Code Section 50288)** In the event that the Property is acquired in whole or in part by eminent domain or other acquisition by any entity authorized to exercise the power of eminent domain, and the acquisition is determined by the legislative body to frustrate the purpose of the Agreement, such Agreement shall be canceled and no fee shall be imposed under paragraph 9. This Agreement shall be deemed null and void for all purposes of determining the value of the Property so acquired.
- 20) **General Provisions** None of the terms provisions or conditions of this Agreement shall be deemed to create a partnership hereto and any of their heirs, successors or assigns, nor shall such terms, provisions or conditions cause them to be considered joint ventures or members of any joint enterprise.
- 21) **Attorney's Fees** In the event legal proceedings are brought by any party or parties hereto, to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover its reasonable attorney's fees in addition to court costs and other relief ordered by the court.
- 22) **Complete Agreement** This Agreement represents the complete understandings and agreement of the parties and no prior oral or written understandings are in force and effect.

23) **Headings** The headings in this Agreement are for reference and convenience of the parties and do not represent substantive provisions of this Agreement.

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

Property Owners:

_____ date

_____ date

City of Oakland:

_____ date
City Administrator

APPROVED AS TO FORM AND LEGALITY

_____ date
City Attorney

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

EXHIBIT C: SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES - Standards for Rehabilitation

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

EXHIBIT D: MINIMUM PROPERTY MAINTENANCE STANDARDS

The following conditions are prohibited:

Dilapidated, deteriorating, or unrepaired structures, such as fences, roofs, doors, walls, windows, broken windows, peeling exterior paint, broken structures;

Graffiti;

Incomplete exterior construction where no building inspections have been requested for six or more months, or for work which does not require a building permit, where there has been no significant progress for 90 days.

2017 OCT 12 PM 3:32

Approved as to Form and Legality

OAKLAND CITY COUNCIL

Hee
City Attorney

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

A RESOLUTION, AS RECOMMENDED BY THE LANDMARKS PRESERVATION ADVISORY BOARD, APPROVING FIVE (5) MILLS ACT CONTRACTS BETWEEN THE CITY OF OAKLAND AND THE PROPERTIES AT 836 TRESTLE GLEN ROAD (ESTIMATED \$8,669/YEAR PROPERTY TAX REDUCTION), 3130 UNION STREET (ESTIMATED \$294/YEAR PROPERTY TAX REDUCTION), 1630-32 MYRTLE STREET (ESTIMATED \$5,285/YEAR PROPERTY TAX REDUCTION), 783 20TH STREET (ESTIMATED \$2,255/YEAR PROPERTY TAX REDUCTION), AND 863 CLEVELAND STREET (ESTIMATED \$12,889/YEAR PROPERTY TAX REDUCTION), 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

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 meets numerous General Plan Land Use goals and policies, including housing rehabilitation, preservation of community character and identity, sustainability, revitalization, and image; and

WHEREAS, the City has received five Mills Act contract applications in 2017 from qualified properties, all of which are City of Oakland Designated Historic Properties: (1) 836 Trestle Glen Road, a Monterey Revival house in Lakeshore Highlands, (2) 3130 Union Street, a California bungalow in the Clawson neighborhood, (3) 1630-32 Linden Street, a Victorian/1920s flats building in Oak Center; (4) 783 20th Street, a Queen Anne house in Oak Center; and (5) 863 Cleveland Street, a Craftsman house in the Park Boulevard neighborhood; and

WHEREAS, properties (3) and (4) are contributors to the Oak Center S-20 Historic District,

designated by City Council in 2002; and properties (1), (2), and (5) were designated as Heritage Properties by the Landmarks Preservation Advisory Board on July 10, 2017, in conjunction with the Mills Act applications; and

WHEREAS, at a duly noticed meeting, the Landmarks Preservation Advisory Board on July 10, 2017, recommended the five applications for contract approval for the 2017 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 July 19, 2017; and

WHEREAS, the City Council Community and Economic Development Committee considered the matter at its October 10, 2017, duly noticed meeting and recommended its approval to the City Council; and

WHEREAS, the City Council considered the matter at its October 17, 2017, duly noticed meeting; now, therefore be it

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

- 836 TRESTLE GLEN ROAD, Oakland CA**
- 3130 UNION STREET, Oakland CA**
- 1630-32 MYRTLE STREET, Oakland CA**
- 783 20TH STREET, Oakland CA**
- 863 CLEVELAND STREET, Oakland CA**

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

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