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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: William A. Gilchrist
Director, PBD

SUBJECT: Mills Act Contracts

DATE: October 1, 2018

City Administrator Approval

Date:

10/9/18

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution, As Recommended By The Landmarks Preservation Advisory Board, Approving Nine (9) Mills Act Contracts Between The City Of Oakland And The Properties At 4690 Tompkins Avenue (Estimated \$42,825/Year Property Tax Reduction), 528 28th Street (Estimated \$5,664/Year Property Tax Reduction), 260 Park View Terrace (Estimated \$9,083/Year Property Tax Reduction), 1255 Trestle Glen Road (Estimated \$14,239/Year Property Tax Reduction), 581 Vernon Street (Estimated \$3,075/Year Property Tax Reduction), 5701 International Blvd. (Estimated \$15,835/Year Property Tax Reduction), 677 Longridge Road (Estimated \$9,536/Year Property Tax Reduction), 1419 12th Street (Estimated \$4,432/Year Property Tax Reduction), 2440 10th Avenue (Estimated \$11,690/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 nine historic properties recommended for approval by the Landmarks Preservation Advisory Board at its July 9, 2018 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 \$116,284 total for the nine 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 \$31,722 total for the nine 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:

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4690 Tompkins Avenue, MA18 001 (Council District 4 – Campbell Washington)
528 28th Street, MA18-002 (Council District 3 – Gibson McElhaney)
260 Park View Terrace, MA18-003 (Council District 3 – Gibson McElhaney)
581 Vernon Street, MA18-004 (Council District 2 – Guillen)
1255 Trestle Glen Road, MA18 005 (Council District 2 – Guillen)
5701 International Blvd., MA18 006 (Council District 5 – Gallo)
677 Longridge Road, MA18-007 (Council District 2 – Guillen)
1419 12th Street, MA18-008 (Council District 3 – Gibson McElhaney)
2440 10th Avenue, MA18 009 (Council District 2 – Guillen)

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 revitalization. While there have been Federal tax credits and local facade grants for commercial properties, the Mills Act program is one of the few preservation incentives that is also available to owners of single- and multi-family residential properties. The California State Office of Historic Preservation 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” (http://ohp.parks.ca.gov/?page_id=21412).

Adoption of a Mills Act program in Oakland was one of the incentives recommended in the Historic Preservation Element of the Oakland General Plan adopted by City Council in 1994 (Resolution No. 70807 C.M.S.; Action 2.6.1 of the Element). Investigation of a Mills Act program was one of the 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 2009 Mills Act ordinance limited City tax revenue losses from new contracts to \$25,000 per year and Redevelopment losses to \$25,000 per Redevelopment area per year up to \$250,000, plus an additional \$250,000 in the Central Business District. The ordinance provides that tax losses may exceed those limits with City Council approval. Since the abolition of Redevelopment in 2012, projected first-year revenue impacts of new Mills Act contracts have not exceeded the \$25,000 “City revenue” limit until this year.

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 ten years. At the end of each year, the term is automatically extended one year, unless the owner or the City gives notice not to renew. If notice of non-renewal is given, the contract remains in effect for the balance of the current ten-year term.
- The 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 an approved 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 contract 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 49 contracts in effect. The proposed nine new contracts will go into effect for the 2019-2020 tax assessment year and will bring the total to 58. The owners will experience tax reductions estimated to total \$116,284, resulting in an estimated first-year revenue loss of around \$31,722. For the first time, this estimate exceeds the limit of \$25,000/year "City revenue" reduction for new Mills Act contracts. Past years' (2008-17) first-year revenue loss estimates for new contracts have ranged from \$1,885 in 2011 to \$10,740 in 2015, averaging \$5,260 a year over the past ten years.

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, 1605 Broadway, Mills Act 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. 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 a review of

sample online tax histories for properties that entered the program from 2008 to 2015 appears to confirm the expected pattern of a significant reduction followed by gradual increases.

The applications proposed for approval for 2018 Mills Act contracts are all City of Oakland Designated Historic Properties, one a City Landmark since 1992 and the rest designated as Heritage Properties by the Landmarks Board on July 9, 2018. Seven are small residential properties of one to four units. Two are large underutilized properties in East Oakland that are being rehabilitated for apartment and live/work use. Construction dates range from 1885 to 1928. 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 eleventh 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

4690 Tompkins Avenue, MA18-001, Beulah Rest Home, 1928-58

The Beulah Rest Home is a Spanish eclectic style multi-unit residential building developed as a missionary rest home for the Methodist Church in 1928 by Oakland architects Wythe, Blaine & Olson. With additions, it forms a block-long "V" at the steep intersection of Tompkins and Wilkie Avenues. Construction is concrete with wood frame interiors. Distinctive exterior characteristics include textured stucco, mission tile roofs, balconies with wrought iron railings, ceramic tile, and cast cement ornament. This is a fairly recent example of many 19th and early 20th century institutions that sought the healthful climate and rural seclusion of the East Oakland hills, including Mills College, the Fred Finch Orphanage, and smaller private sanitarium. Its architecture resembles the Ratcliff-designed Spanish eclectic buildings at nearby Mills College. The complex is being converted to 40 apartments. Work program includes repair or matching replacement of distinctive exterior stucco, clay tile roofs, doors and windows, and ornamental metalwork.

Application Strengths: thorough analysis of building, informed by original plans; substantial underutilized historic building with housing potential; large apartment project in East Oakland—diversity of location and building type.

528 29th Street, MA18-002, Samuel C. Bercovich house, 1910

The Bercovich house, designed by architect A. Merrill Bowser, displays a somewhat academic version of Craftsman style with its combination of shingles and half-timber. Samuel Bercovich, arrived in Oakland in 1883 from Hungary as the eldest son of Abraham Bercovich, one of the founders of Congregation Beth Jacob and namesake of Temple Beth Abraham. Other Jewish merchant families lived on the block, as did architect J.C. Newsom. The blocks in this north-central streetcar-suburb neighborhood extended all the way from Telegraph Avenue to Martin Luther King Way (then Grove Street) and had many distinguished Victorian and Earthquake-era homes, lost to freeway construction in the 1960s. Notable examples remain on the block

fragments west of Telegraph, especially on this piece of 28th Street, identified as a potential Telegraph-28th-Merrimac District in the 1980s by the Oakland Cultural Heritage Survey. Work program includes exterior drainage improvement to stabilize foundation, replacing aluminum windows with wooden double hung windows, and restoring steps and exterior shingled surfaces.

Application Strengths: correcting deferred maintenance and inappropriate alterations; opportunity as neighborhood catalyst in fragile Northgate location; applicant has already restored wood sash windows and thoroughly investigated building clues.

260 Park View Terrace, MA18-003, Sarah and Mary Cutler house, 1906

260 Park View Terrace is a classic "big Berkeley brown shingle" in Adams Point a block from Lake Merritt. It is part of a row of four well-placed large 1900s houses prominently sited on the up-slope of Park View Terrace. A rusticated concrete retaining wall still runs along most of the block. Though hemmed in by late 20th century apartment buildings, the block still strongly conveys the character of Adams Point during the building boom after the 1906 Earthquake. The house's builder and probable designer, A.H. (Alphonso Herman) Broad of Berkeley, was a leading creator of rustic brown shingle houses and institutional buildings in the 1900s. Proposed work includes fixing drainage and areas of foundation deterioration or settlement, replacing deteriorated wood components including trim and stairs, replacing aluminum with wood sash windows, restoring original concrete steps and adding a more compatible railing.

Application Strengths: correcting deferred maintenance and inappropriate alterations; addressing drainage and foundation issues due to picturesque hillside site; potential as catalyst for improvement on architecturally distinguished block.

1255 Trestle Glen Road, MA18-004, Charles W. Smith house, 1922

This two-story Spanish eclectic home was designed by the distinguished Oakland firm of Miller and Warnecke. The house is in the Lakeshore Highlands tract subdivided in 1917 as a "residence park" designed by the Olmsted Brothers on the model of England's "garden suburbs." The Olmsteds' winding streets follow natural contours, with open creek and park areas. The area was also shaped by transportation, from 1893 when Borax Smith ran a trolley line from downtown to Sather Park. The Key Route B line served the tract's San Francisco commuters, and the tract advertised with a graphic of a winged trolley. Houses are romantic and picturesque, exhibiting a 1920s taste for country charm and European culture, seen in this house's curving parapets, tile roofs at assorted angles, arched windows, deep recessed entry, arch-topped chimney, and overall asymmetrical, informal appearance. Proposed work includes seismic retrofit by bolting to foundation, roof replacement and repair, new true divided light casement windows, repair/rebuild street-facing period garage, repair wood rot and damage.

Application Strengths: maintenance and repair of vulnerable wooden and stucco house components; potential catalyst for neighborhood and block improvement; sixth Mills Act project on Trestle Glen, nucleus of possible S-20 historic district designation for this block or tract.

581 Vernon Street, MA18-005, Berthold Lissner house, 1908

581 Vernon Street was built in 1908 by contractor R.H. Fallmer and architect H.A. Kempf for Berthold Lissner, a jeweler in downtown Oakland. It is a unique one story and basement

Craftsman/Colonial house with many angles and bays, a complex hip and valley roof with flared eaves and multiple dormers, and a large wraparound front porch with massive columns and brackets. The long rooflines and deep porch are characteristic of other shingled homes in the turn of the century hillside tracts that became Rose Garden neighborhood. The area has lost many of its distinctive homes to apartment complexes but houses like this maintain its character as an architectural showplace of the 1890s-1900s. Work program includes repairing moisture-related damage to wood structural and exterior elements, replacing inappropriate door and windows, and exterior painting.

Application Strengths: maintenance and repair of vulnerable wooden house components; potential catalyst for neighborhood and block improvement; applicant has personally restored windows and thoroughly investigated building clues; geographic diversity—first Mills Act project in Rose Garden neighborhood.

5701 International Blvd., MA18-006, Mutual-Safeway Stores office and warehouse, 1928

The Safeway Tower is an outstanding visual landmark on International Boulevard, as well as a designated City Landmark for its exuberant Beaux Arts-influenced design and its role in Oakland's economic history. It was designed as headquarters for Mutual Stores, an early grocery chain, by the firm of Reed & Corlett, architects of many major civic and corporate buildings of the era. Its brown brick, emblematic terra cotta ornament, and expanses of factory-sash windows present a deliberately elegant street facade for an industrial complex on the city's main boulevard. In recent years it has housed fairly marginal businesses and informal live/work uses. Work program includes repair and re-glazing of historic steel sash windows, restoration of brick masonry and terra cotta, seismic bracing of the tower, restoration of the primary entry area (door, grillwork, plaster, paint, lighting), tower lighting and restoration of flagpole.

Application Strengths: reuse and repair of underutilized, highly visible City Landmark; large-scale economic and preservation catalyst project on East Oakland's main street; detailed specifications for restoration products and techniques; example for other projects involving historic steel windows; diversity of location (former Coliseum redevelopment area) and building type—second industrial building in Mills program.

677 Longridge Road, MA18-007, Harry Houck spec house, 1925

This is one of many Period Revival houses developed by builder Harry Houck in the Lakeshore-Trestle Glen and Glenview neighborhoods. Houck came up through the trades to become a contractor and developer, and though not a "name" architect, clearly had a major role in establishing the look and character of the area. His wife was an active member of the business, and in later generations his stepdaughter was arts patron Louise Davies and a granddaughter was a founder of the Grubb real estate company. The house is a straightforward, picturesque Tudor Revival—stucco clad, two stories, rectangular plan, cross-gabled roof with half-timbered gables—on an extremely steep downslope lot. Permits do not identify an architect, and pattern book sources have not been identified, so Houck's role in the design is not currently known. Work program includes earthquake and foundation retrofitting on extremely steep lot, replacing altered French door, picture window, and garage door, and exterior paint and stucco repair.

Application Strengths: addresses structural stability in creek and hill area; well thought out proposal describes additional work outside Mills contract; potential neighborhood catalyst; seventh Mills Act contract in Lakeshore Homes tract, a potential S-20 historic district

1419 12th Street, MA18-008, Crase-Ackerman-Bacina house, 1892-93

This Queen Anne cottage in the Oakland Point District is one story with a high raised basement, hip and gable roof, angled bay window, stained glass, and decorative millwork. Its history typifies the patterns for which Oakland Point (the Prescott neighborhood of over 800 buildings) has been determined eligible for the National Register. First owner Fred Ackerman was a conductor for the Southern Pacific, a union member, and active in the railroad social scene, as were later owners and residents. In the house's first half-century, owners were all immigrants, from England, Portugal, and Yugoslavia, exemplifying the early ethnic makeup of Oakland Point. In another common pattern, the house was built as part of a family compound, by Ackerman's mother-in-law Mary Crase who lived next door. The house's alterations are further typical of Oakland Point's evolution in the 20th century, when the basement was raised to insert a garage and unit and the asbestos siding was applied. Work program is planned to remove asbestos siding, repair/replace redwood siding as needed, paint; repair/replace damaged or altered windows, all to be wood double-hung rope-and-pulley; replace damaged/missing architectural details, stairs, downspouts, and front door; restore art glass window in entryway

Application Strengths: 15th Mills Act project in West Oakland; fourth project in Oakland Point District; detailed and well thought out work program addressing widespread restoration needs in the neighborhood—value as catalyst, model, and information source.

2440 10th Avenue, MA18-009, William P. Kelly house, 1885-86

This is an 1885-86 Queen Anne-Stick house in the upper San Antonio/Bella Vista neighborhood, in the same semi-rural area as Gertrude Stein's "Old Stratton Place" that was no longer "there, there" ("the big house and the big garden and the eucalyptus trees and the rose hedge naturally were no longer existing") and Borax Smith's estate. This was the only house on its side of 10th Avenue above East 24th Street in the 1888 block book, and the original owner, William Kelly, described as a miner, took part in the effort to open 10th Avenue in 1890. It has a generous rambling country-house footprint and an extra deep lot, a big hip and gable roof, distinctive Stick brackets, but also a layer of pseudo Victorian appliqué, apparently a late 20th century "restoration," which is proposed to be removed as part of the Mills work program. Work program includes foundation repair and seismic reinforcement; removal of inappropriate exterior wood trim and repairing original shingles, trim, and siding; exterior paint.

Application Strengths: structural and exterior preservation; daring reversal of false-historical alterations; geographic diversity—East Oakland targeted in original Mills ordinance.

Mills Act Contract Obligations

Participation in a Mills Act program is voluntary for both the property owners and the City. The contract including the work program is recorded on the property title. While the contract is in effect, taxes are assessed at the lowest of three possible assessments: the Mills Act formula, base year ("Prop. 13" – the likely current assessment), and market value. The owner is obligated to invest the tax savings in carrying out the work program. The contract, tax formula, and work program all remain with the property if it is sold or transferred.

Contracts are for a ten-year term, automatically renewed annually for an additional year. Either the City or the property owner may elect not to renew for any reason, which would terminate the agreement at the end of the current ten-year term (i.e., termination requires ten 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 ten years' notice, either at the owner's request or by the City for owner's noncompliance. Otherwise the contract is in perpetuity, though additional work items are not added after the first ten years.

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 an incapacitating illness. In 2016, one application was withdrawn after submittal because the owner wanted to consider options that might be incompatible with a preservation contract. A few owners, for various reasons, have gone through the entire application and approval process but did not record their executed contracts with the county and therefore did not receive the Mills Act tax reduction.

FISCAL IMPACT

The table on the next page shows estimated tax reductions to applicants and revenue reductions to the City (the City receives approximately 27.28 percent of property taxes) resulting from the Mills Act contracts recommended for 2018. Based on Alameda County records and information from applicants, Column 2 lists the 2017-18 assessed value and Column 3 lists current (2017-18) property taxes. Column 4 lists the *estimated* Mills Act property taxes, using the income-based assessment formula established by the Mills Act via the Mills Act Calculator spreadsheet on the City's website, currently at www.oaklandnet.com/historicpreservation. The formula is based on actual or hypothetical rental income, with an adjustment to the capitalization rate for "historic property risk." Column 5 lists the difference between the current property taxes and the estimated Mills Act property taxes, i.e., the applicant's projected tax savings, which must 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. The Mills Act reduction applies only to the ad valorem property tax, not to any special assessments or other charges.

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 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.

In addition to the rather generic estimates from the calculator, some applicants have provided their own calculations—some higher, some lower—based on conversations with the Assessor or other research. Again, these can only be rough figures, especially as 2018-19 assessments have not been published at the time of this report, and the 2019-20 Mills Act restricted assessments based on market rents will not be calculated by the county until 2019.

1 Mills Act Application Number	2 2017-18 Assessed Value	3 2017-18 Property Tax	4 Mills Act Tax estimate from calculator	5 Change in Tax (current less Mills estimate)	6 City Revenue Loss, Year 1 (27.28%)
Small residential properties, citywide:					
MA18-002	\$925,000	\$12,475	\$6,811	(\$5,664)	
MA18-003	\$1,173,000	\$15,819	\$6,736	(\$9,083)	
MA18-004	\$1,526,000	\$20,580	\$6,341	(\$14,239)	
MA18-005	\$1,005,767	\$13,658	\$10,583	(\$3,075)	
MA18-006	\$1,255,206	\$16,928	\$7,392	(\$9,536)	
MA18-008	\$700,000	\$9,440	\$5,008	(\$4,432)	
MA18-009	\$1,400,000	\$18,280	\$6,590	(\$11,690)	
<i>Approximate residential tax reductions:</i>				total tax reduction (57,624))	City revenue reduction (15,720)
Large adaptive reuse projects in East Oakland:					
MA18-001	\$16,000,000	\$208,912	\$166,087	(\$42,825)	
MA18-007	\$8,495,229	\$125,742	\$109,907	(\$15,835)	
<i>Approximate large project reductions:</i>				total tax reduction (58,660)	City revenue reduction (16,002)

TOTAL estimated City tax revenue loss, year 1 (tax year 2019-20) (\$31,722)

An estimated loss of \$15,720 for the seven residential properties is below the City tax revenue loss limit for new Mills Act contracts of \$25,000 (though significantly higher than past years), and the two large adaptive reuse projects appear to produce an additional estimated revenue reduction of approximately \$16,002, for a total roughly estimated City revenue loss of \$31,722. If accurate, and assuming all applicants proceed to execute and record their contracts, this exceeds the \$25,000 limit established in 2007 by \$6,722, again a very rough estimate. Exceeding the limits in the 2007 ordinance requires City Council approval, which would be given implicitly by authorizing all nine contracts.

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Tax impacts of the Mills Act formula have been 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 more likely to benefit 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 for owner-occupied homes), the current spike in rental prices means that Mills Act savings may 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 will be calculated using market rent as of January 1, 2019. 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 potential rent per square foot (at least \$2 to \$3) into the calculator on the City website and to research comparable properties in their neighborhoods. Lower Mills Act savings for owners would, of course, also mean less revenue loss for the City.

Staff believes it is reasonable to recommend all nine applications for Mills Act contracts, and to recommend that Council approve 2018 contracts in excess of the 2007 limit, for these reasons:

- Inflation: property prices and taxes have risen sharply in recent years. In 2006 the staff report for the pilot program stated that the "\$25,000 tax loss amounts to 0.03% of the annual [property] tax revenues which total \$85 million." The City's 2016-17 adopted budget projects \$177,407,009 in property tax revenue, more than double what it was when Oakland's Mills Act program was designed. (.03% would be roughly \$53,000.)
- Until the abolition of Redevelopment in 2012, there were substantial additional tax revenue losses (up to \$500,000 a year) allowed in Redevelopment areas, which covered most of Central, West, and East Oakland. (In the future, the Mills program could perhaps be revised to adjust for inflation and the end of Redevelopment.)
- Past years' (2008-2017) first-year revenue loss estimates for new contracts have consistently been far below the \$25,000 limit, ranging from from \$1,885 in 2011 to \$10,740 in 2015. The pilot program ordinance allowed for "rollovers of both [number of] applications and revenue impacts" to the following years' quotas.
- A fundamental premise of the Mills Act is that 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. Money spent on the work programs also makes its way back into the local economy and tax base. The proposed 2018 contracts obligate owners to reinvest over \$116,000 a year in materials, wages, and other costs of restoration.
- Previous 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 when these long-underutilized buildings were purchased, improved, and reassessed.
- The two large adaptive reuse projects applying this year are both in East Oakland, an area that has been underrepresented throughout the life of Oakland's Mills Act program.

- This is the first year since the end of Redevelopment that large adaptive reuse projects outside the Central Business District have applied for the Mills Act program. By the applicants' calculations, anticipated tax reductions are approximately \$42,825 for Tompkins Avenue (MA18-001) and \$15,835 for International Blvd. (MA18-006). Staff and Landmarks Board believe bringing these underutilized properties into service with high quality, historically informed rehabilitation will benefit the occupants, neighbors, and City.

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 the fastest and the potential tax reductions are greatest. Since the beginning of the program, applications and contracts have been concentrated in Council Districts 2 and 3 (as they are this year), and in West, Central, and North Oakland, Lakeshore, and San Antonio, with proportionately far fewer contracts in East Oakland. The two large projects in Districts 4 and 5 this year may signal a rising interest in East Oakland development that may in turn result in future Mills Act projects.

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 significant vehicles for publicizing the program until the end of Redevelopment in 2012. Outreach now takes place primarily in person when permit applicants, owners, and real estate agents contact Planning staff about buildings that appear qualified, as well as when neighbors tell neighbors. There is a detailed Mills Act page on the City website, currently best accessed at www.oaklandnet.com/historicpreservation.

Every year staff receives dozens of spontaneous inquiries from owners who have heard about the program, and staff helps them determine if their properties are a good fit, considering current tax status (directly 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. Staff works closely with potential applicants to develop their Mills Act and Heritage Property applications, so that virtually all who get to the point of formally submitting applications have been successful.

The 2018 Mills Act applications were publicly presented and discussed at the Landmarks Preservation Advisory Board's regular meeting on July 9, 2018, at which time the Landmarks Board recommended that the City Council authorize Mills Act contracts for all nine applicants and approve the potential approximately \$32,000 revenue reduction. The applications were also presented as a Director's Report at the September 5, 2018, 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.

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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 ten 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. Due to staffing constraints, inspections have generally taken the form of email surveys, self-reporting, and contacts at the permit counter.

SUSTAINABLE OPPORTUNITIES

Economic: Historic rehabilitation is labor intensive and provides 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 throughout California that Mills Act projects act as catalysts for revitalization in the surrounding neighborhood. Over time, neighborhood property values increase and tax revenues follow.

Environmental: Historic preservation 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 finite 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

Approval of Mills Act 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

Adopt A Resolution, As Recommended By The Landmarks Preservation Advisory Board, Approving Nine (9) Mills Act Contracts Between The City Of Oakland And The Properties At 4690 Tompkins Avenue (Estimated \$42,825/Year Property Tax Reduction), 528 28th Street (Estimated \$5,664/Year Property Tax Reduction), 260 Park View Terrace (Estimated \$9,083/Year Property Tax Reduction), 1255 Trestle Glen Road (Estimated \$14,239/Year Property Tax Reduction), 581 Vernon Street (Estimated \$3,075/Year Property Tax Reduction), 5701 International Blvd. (Estimated \$15,835/Year Property Tax Reduction), 677 Longridge Road (Estimated \$9,536/Year Property Tax Reduction), 1419 12th Street (Estimated \$4,432/Year Property Tax Reduction), 2440 10th Avenue (Estimated \$11,690/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 A. GILCHRIST
Director, Department of Planning and Building

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

Attachments (3):

- A: July 9, 2018, Landmarks Preservation Advisory Board Staff Report
- B. Ordinances establishing pilot and permanent Mills Act Program (Ordinance No. 12784 C.M.S. and 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.

Mills Act Contract Applications
2018 OCT 10 AM 10:55

July 9, 2018

3.	Proposal: Case File Number /Location/ City Council District /Zoning:	Mills Act Contract Applications by owners. 1) MA18-001: 4690 Tompkins Avenue (APN 037-2544-017-01); City Council District 4, Zoning RM-3 2) MA18-002: 528 28th Street (APN 009-0697-008); City Council District 3, Zoning RU-1 3) MA18-003: 260 Park View Terrace (APN 010-0771-032); City Council District 3, Zoning RU-2 4) MA18-005: 1255 Trestle Glen Road (APN 024-0565-056); City Council District 2, Zoning RD-1 5) MA18-004: 581 Vernon Street (APN 010-0817-003); City Council District 2, Zoning RM-1 6) MA18-006: 677 Longridge Road (APN 011-0885-020-02); City Council District 2, Zoning RD-1 7) MA18-007: 5701 International Blvd. (APN 41-3848-4-1); City Council District 5, Zoning IG/S-19, City Landmark 8) MA18-008: 1419 12th Street (APN 004-0063-004); City Council District 3, Zoning RM-2 9) MA18-009: 2440 10th Avenue (APN 022-0334-016); City Council District 2, Zoning RM-1
	Applicant/Owner:	Multiple, see individual applications attached
	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 2018 Mills Act contracts. Forward to Planning Commission as informational item. Forward recommendations to City Council.
	For Further Information:	Contact case planner Betty Marvin at (510) 238-6879 or by email: 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 also establishes a 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 criteria 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 a pre-approved, recorded program of eligible improvements that restore or maintain the historic exterior character of the building or its structural integrity. The relatively small tax benefit gives owners the means and motivation for high quality historically appropriate improvements, and can be especially beneficial for underutilized or undermaintained properties. Beyond just historic preservation, such projects further City goals including creation and preservation of housing, reduction of blight, and enhancement of neighborhoods. Oakland has approved 61 Mills Act Contracts since the program started in 2008 (map, Attachment 11).

A two-year pilot Mills Act program was adopted by the Oakland City Council in 2006-07. In 2009 the City Council expanded the program and made it permanent. The 2009 ordinance limited impact on City revenue to \$25,000 a year in new contracts, with separate quotas for redevelopment areas (\$250,000 a year in the Central Business District and \$25,000 a year in any other single redevelopment area). Since the abolition of redevelopment in 2012, the City share of property tax revenue (or property tax reduction) is uniform across the city at 27.28%. The ordinance provides that tax losses may exceed these limits with approval of the City Council.

The Mills Act establishes an alternate method of calculating property taxes for participating properties based on the income method of appraisal. In this method, property value is extrapolated from estimated potential rental income, using a capitalization rate or multiplier. Under the Mills Act the capitalization rate, usually around 10%, is adjusted for “historic property risk” by 4% for owner-occupied residential properties or 2% for all others, giving potentially a 20 to 40 percent tax reduction to Mills Act “restricted” properties.

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, and properties in S-7 and S-20 districts). Properties not already formally designated by the Landmarks Board must concurrently obtain Heritage Property or other designation.

Important features of the Mills Act program, established by the state legislation and incorporated into Oakland’s Mills Act contracts, 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 compliance with the contract.
- 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.

INTRODUCTION

2018 Mills Act Applications

Mills Act applications are accepted from January through May of each year, to allow time for processing by the City and recording with the County by December 31. Nine completed Mills Act applications – the largest number since 2008 - were submitted this year and are before the Landmarks Board for review. Eight of those are applying for Heritage Property designation at this meeting and one is an existing City Landmark. As in past years, most applications are for small residential buildings (houses or flats). Two large projects in East Oakland are also applying, a 40-unit apartment project in the former Beulah Rest Home at 4690 Tompkins Avenue and a work/live development of the landmarks Mutual Stores-Safeway complex at 5701 International Boulevard.

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 the Mills Act for different types of properties;
- *thoroughness* of the application above and beyond being minimally complete.

Staff is recommending selection of all nine 2018 Mills Act contract applications, as satisfying the applicable criteria. Details are provided in summaries on the following pages and in the full applications, Attachments 1 through 9.

FINANCIAL IMPACTS - 2018 Mills Act Applications

A Mills Act calculator on the City website allows applicants to make a *rough estimate* of 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 the state formula based on square footage and hypothetical or actual rent. (When the calculator was designed by EPS consultants for the City a decade ago, the hypothetical average rent was \$1.25/sf!) 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.

In addition to the one-size-fits-all estimates from the calculator, some applicants have provided their own calculations – some higher, some lower - based on conversations with the Assessor or other research. The range of estimates confirms the rough nature of these figures, especially as 2018-19 assessments have not been published at the time of this report and the 2019-20 Mills Act restricted assessments based on market rents will not be calculated by the county until 2019.

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.

1 Mills Act Application Number	2 Assessed Value (county record)	3 Current Property Taxes (county rec.)	4 Mills Act Taxes from calculator (estimate based on ~\$2-3/sf rent)	5 Change in Taxes (current less Mills estimate)	6 City Revenue Loss, Year 1 (27.28% of tax change)
Small residential properties, citywide:					
MA18-002	\$925,000	\$12,475	\$6,811	(\$5,664)	
MA18-003	\$1,173,000	\$15,819	\$6,736	(\$9,083)	
MA18-004	\$1,526,000	\$20,580	\$6,341	(\$14,238)	
MA18-005	\$1,005,767	\$13,658	\$10,583	(\$2,981)	
MA18-006	\$1,255,206	\$16,928	\$7,392	(\$9,536)	
MA18-008	\$700,000	\$9,440	\$5,008	(\$4,432)	
MA18-009	\$1,400,000	\$18,280	\$6,590	(\$11,690)	
Approximate residential tax reductions:				total tax reduction (\$57,619)	City revenue reduction (\$15,718)
Large adaptive reuse projects in East Oakland:					
MA18-001	\$16,000,000	\$208,912	\$166,087	(\$42,825)	
MA18-007	8,495,229	\$125,742	\$109,907	(\$15,835)	
Approximate large project reductions:				total tax reduction (\$58,660)	City revenue reduction (\$16,002)

TOTAL estimated City tax revenue loss, year 1 (tax year 2019-20) (\$31,720)

An estimated loss of \$15,718 for the 7 residential properties is below the City tax revenue loss limit for new Mills Act contracts of \$25,000 (though significantly higher than past years). The two large adaptive reuse projects appear to produce an additional estimated revenue reduction of approximately \$16,002 for a total roughly estimated revenue loss of \$31,720. If accurate, this exceeds the \$25,000 limit established in 2007 by \$6,720, again a very rough estimate.

Tax impacts of the Mills Act formula 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 means that Mills Act savings may 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 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 (at least \$2 to \$3 in 2018) into the calculator on the City website. Lower Mills Act savings for owners would, of course, also mean less revenue loss for the City.

Staff believes it is reasonable to recommend all 9 applications for Mills Act contracts, and to recommend that Council approve 2018 contracts in excess of the 2007 limit, for these reasons:

- Inflation: property prices and taxes have risen sharply in the last few years. In 2006 the staff report for the pilot program stated that the "\$25,000 tax loss amounts to 0.03% of the annual [property] tax revenues which total \$85 million." The City's 2016-17 adopted budget projects \$177,407,009 in property tax revenue, more than double what it was when Oakland's Mills Act program was designed. (.03% would be approximately \$53,000)
- Until abolition of redevelopment in 2012, there were substantial additional tax losses allowed in redevelopment areas (see p. 2), which covered most of Central, West, and East Oakland. In the future, the Mills program could be revised to adjust for the end of redevelopment.
- Past years' (2008-2016) first-year revenue loss estimates for new contracts have consistently been far below the \$25,000 limit, ranging from from \$1,885 in 2011 to \$10,740 in 2015.
- 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.

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 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 nominated properties are all eligible for Heritage Property designation and Mills Act participation.

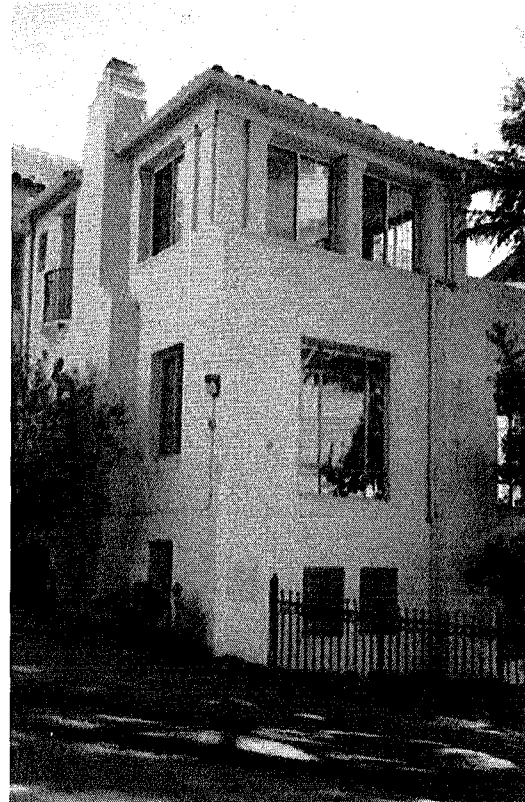
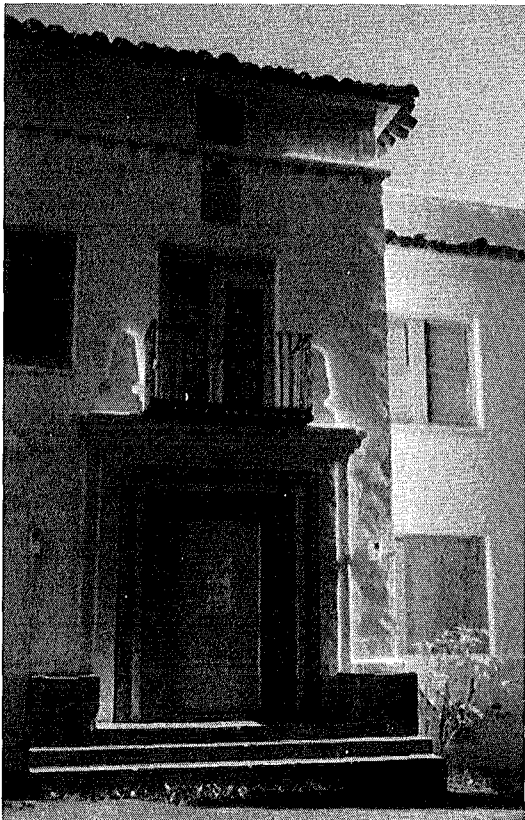
MILLS ACT CONTRACT APPLICATIONS

MA18-001: **4690 Tompkins Ave.,** Beulah Rest Home (APN 37-2544-17-1);(see Attachment 1)
Applicant: 4960 Tompkins Development LLC



OCHS Rating: B+3 (preliminary/field, 1986) = major importance (B), appears eligible for National Register (+), not in district (3). Historically-related ASI later identified.

Heritage Property Eligibility Rating: B (32 points)



Work Program (see Attachment 1):

- exterior walls, stucco – clean, repair, waterproof, repaint
- exterior doors at entries and garages, replacements similar to original
- windows, replacements similar to original
- clay tile roofs, trim courses - replace in-kind with new underlayments, flashings, etc.
- roof decks – repair, waterproof
- ornamental metal railings – replace to match original

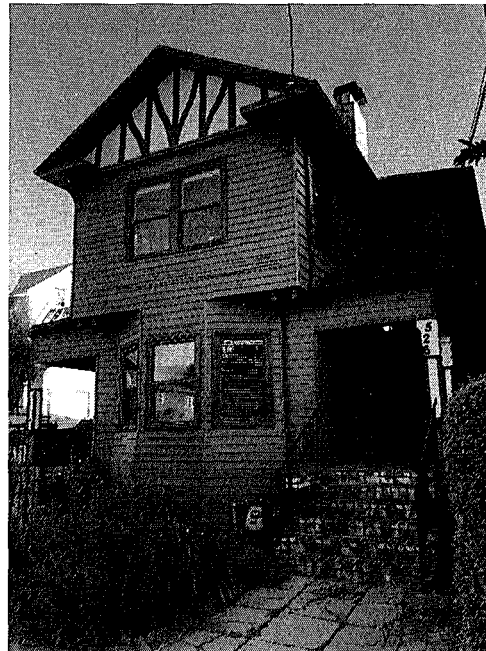
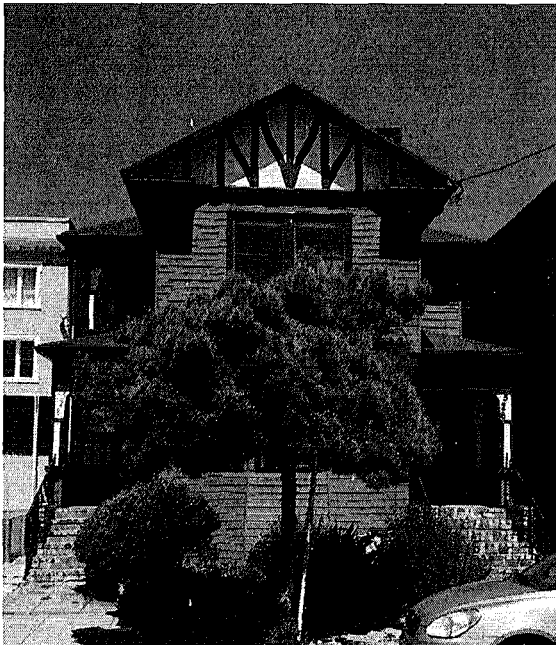
Application Strengths:

- substantial, historic, underutilized building with great housing potential
- thorough analysis of building, informed by original plans
- thoroughly researched product information for proposed replacements
- large apartment project in East Oakland – diversity of location and building type

Mission tile and flat roofs, doors and windows, textured stucco all need repair:



2. MA18-002: 528 28th Street (APN 9-697-8), Bercovich S.C.) house (see Attachment 2)
Applicant: Alexander A. Teran, owner/resident



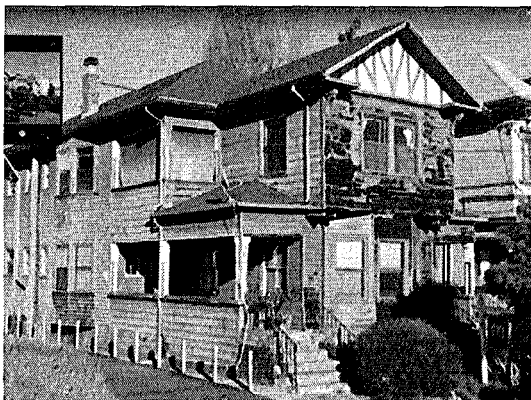
OCHS Rating: C2+ (preliminary/field, 1986): secondary importance, ASI contributor
Heritage Property Eligibility Rating: B (28 points)

Work Program (see Attachment 2):

- exterior drainage improvement to stabilize foundation
- replace side and front aluminum windows with wooden double hung windows
- replace front tongue and groove lap siding with shingles; repair/replace affected trim

Application Strengths:

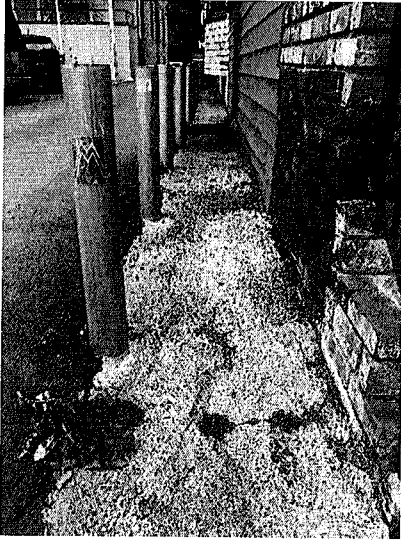
- correcting deferred maintenance and inappropriate alterations
- opportunity as neighborhood catalyst in fragile Northgate location
- applicant has restored wood sash windows and thoroughly investigated building clues



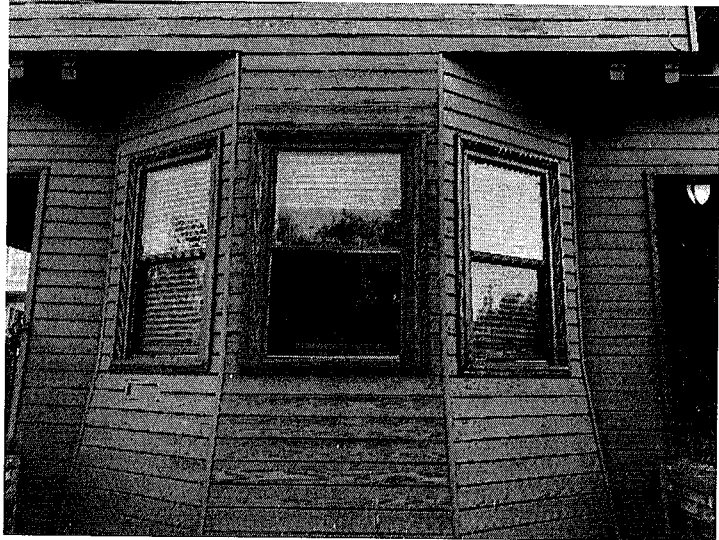
View of 528 28th St from southwest corner
(Dec 2016 – Google Street View)



View of 528 28th St from southwest corner
(Apr 2018)



Drainage, west side of house from front



Shingles and trim to be restored



Aluminum windows



Security doors to be replaced



3. MA18-003: 260 Park View Ter. (APN 10-771-32), Cutler (Sarah, Mary) house (Att. 3)
Applicant: Josephine Lefebvre for owner Grant Chappell



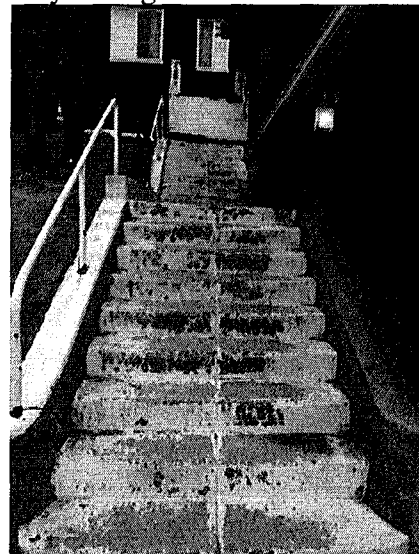
OCHS Rating: C2+ (preliminary/field, 1986): secondary importance, ASI contributor
Heritage Property Eligibility Rating: B (25 points)

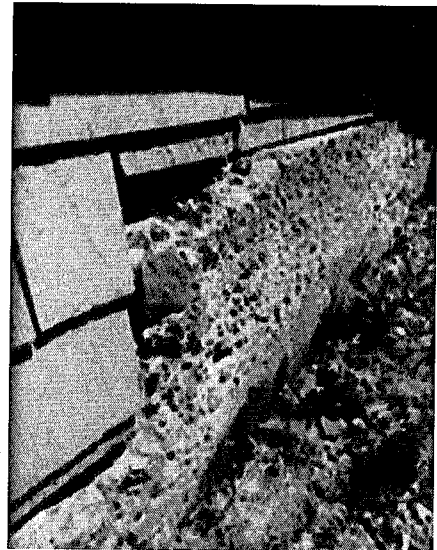
Work Program (see Attachment 3):

- fix drainage issues in back of property.
- remove and replace exterior rotting wood and trim, stairs, and landing
- fix/replace foundation walls in areas of deterioration or settlement
- replace aluminum with wood sash windows and casement windows.
- restore and paint concrete steps and add more compatible railing

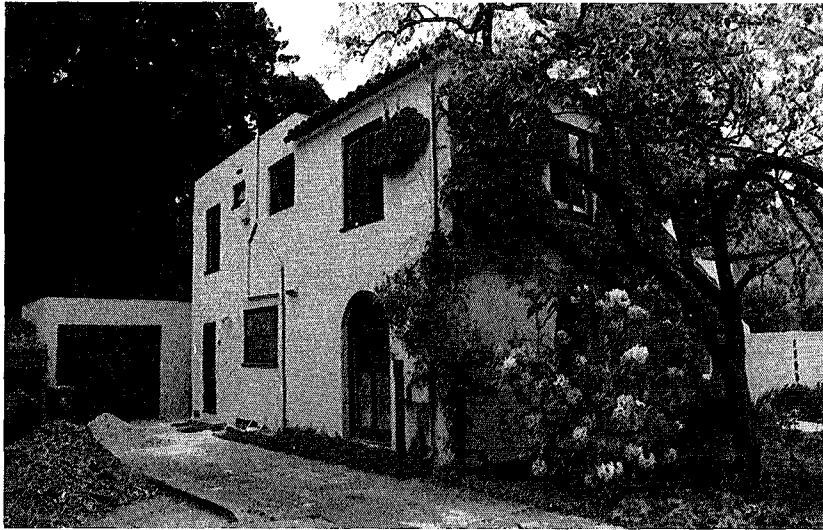
Application Strengths:

- correcting deferred maintenance and inappropriate alterations
- addressing drainage and foundation issues due to picturesque hillside site
- potential as catalyst for improvement on architecturally distinguished block





4. **MA18-004: 1255 Trestle Glen Rd.** (APN 24-565-56), Smith (Charles W.) house, 1922
 Applicant: Catherine Squire & Glenn Appell, owners/residents See Attachment 4



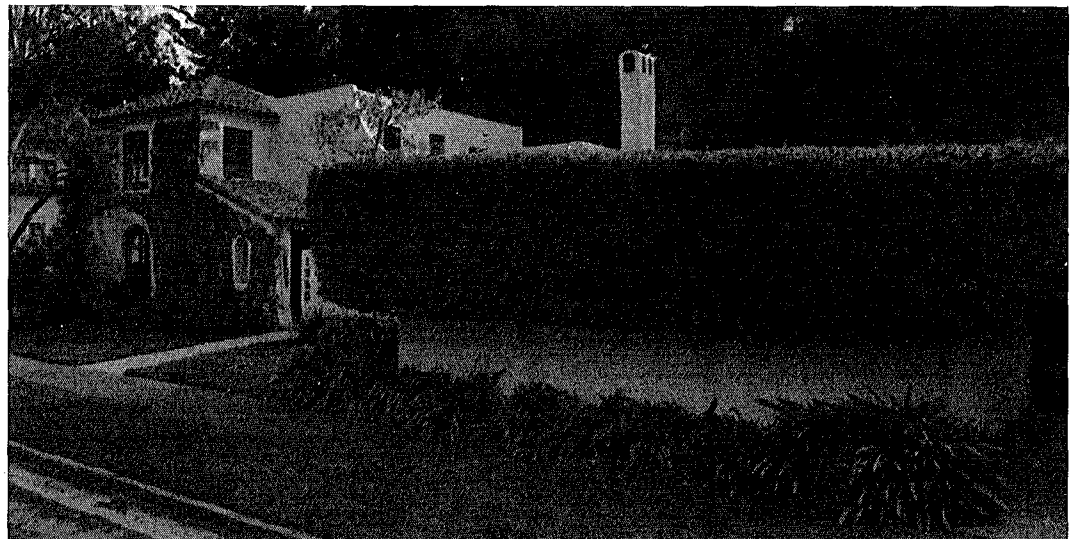
OCHS Rating: C2+ (preliminary/field, 1986): secondary importance, ASI contributor
 Heritage Property Eligibility Rating: B (25 points)

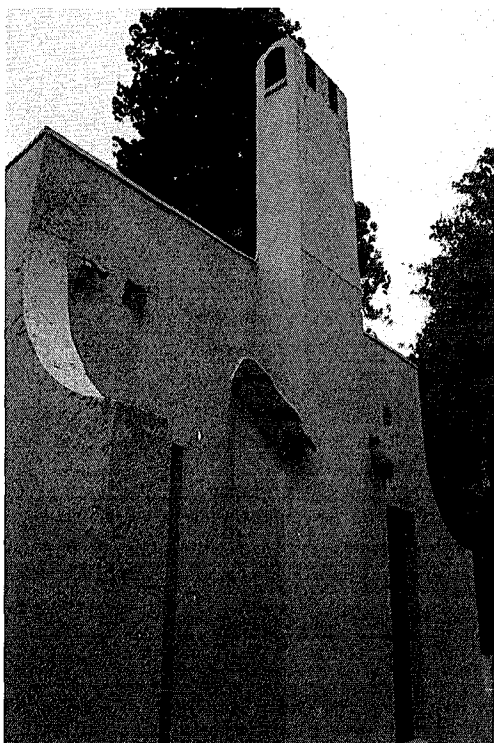
Work Program (see Attachment 4):

- seismic retrofit by bolting to foundation
- roof replacement and repair
- custom build new true divided light casement windows
- repair/rebuild street-facing period garage
- repair wood rot and damage throughout

Application Strengths:

- maintenance and repair of vulnerable wooden and stucco house components
- potential catalyst for neighborhood and block improvement
- sixth Mills Act project on Trestle Glen, nucleus of possible district designation





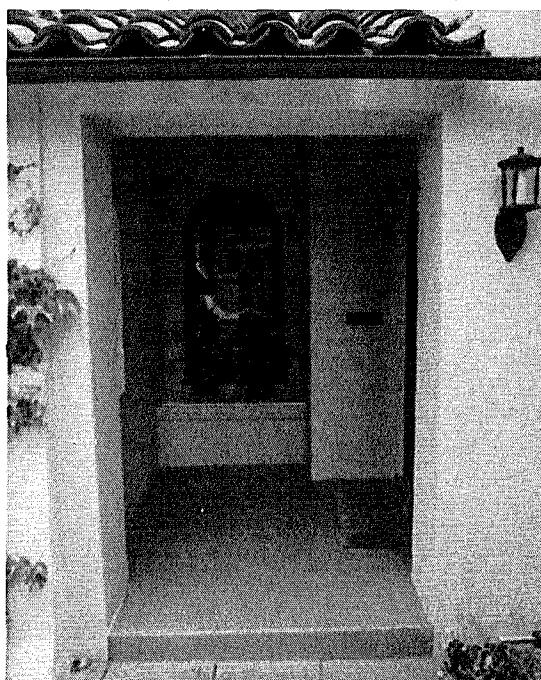
Chimney in danger of collapse



Wood rot on doors and windows

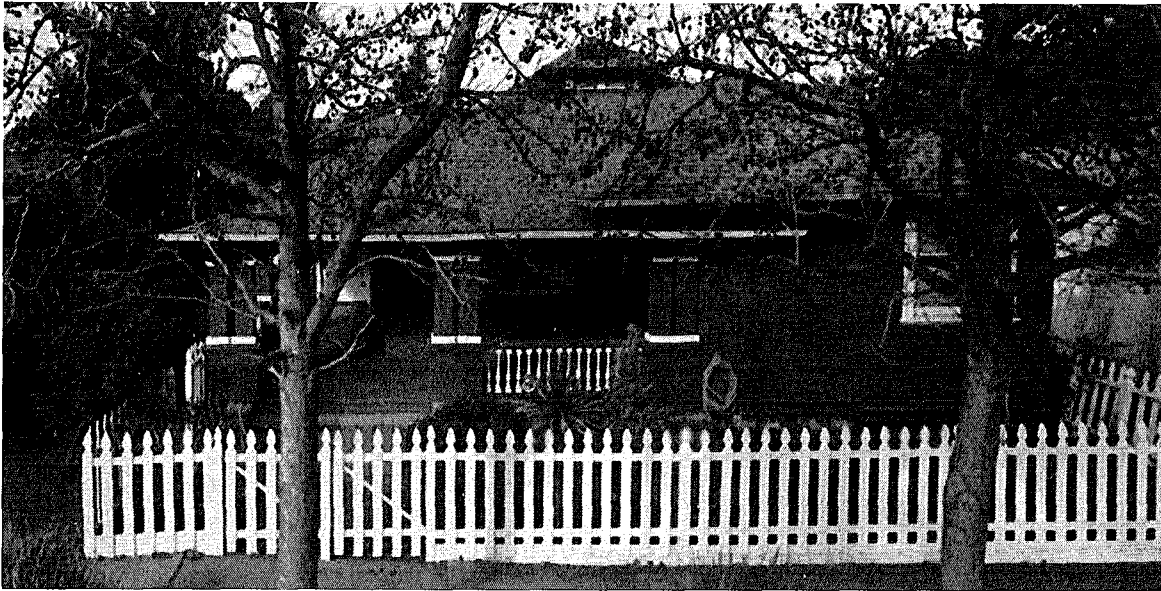


Garage separating from foundation



Recessed entry; tile roof

5. **MA18-005: 581 Vernon Street** (APN 10-817-3), Lissner (Bertheld) house, 1908
Applicant: James and Laura Lee Kulesher, owners/residents See Attachment 5



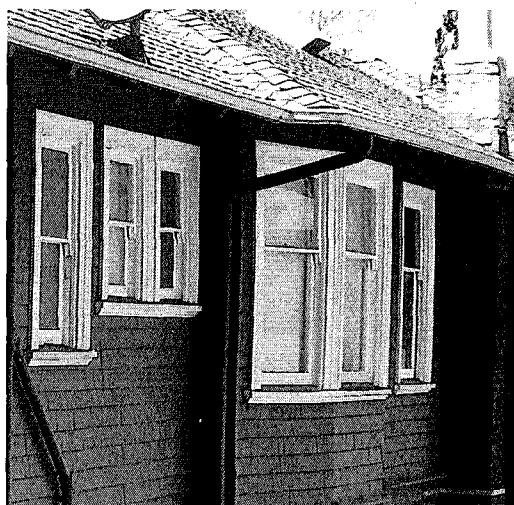
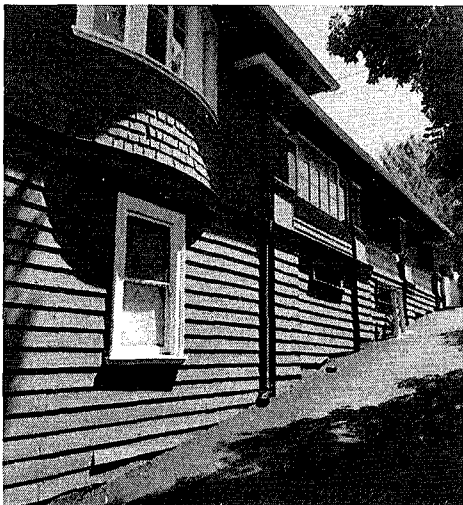
OCHS Rating: C3 (preliminary/field, 1986): secondary importance
Heritage Property Eligibility Rating: B (25 points)

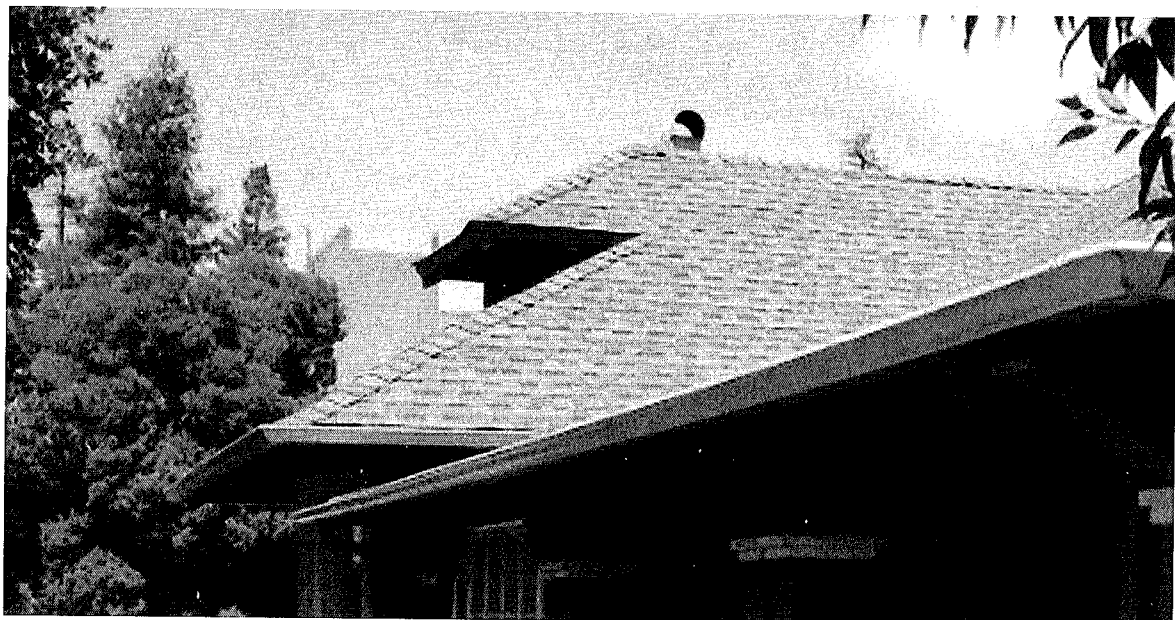
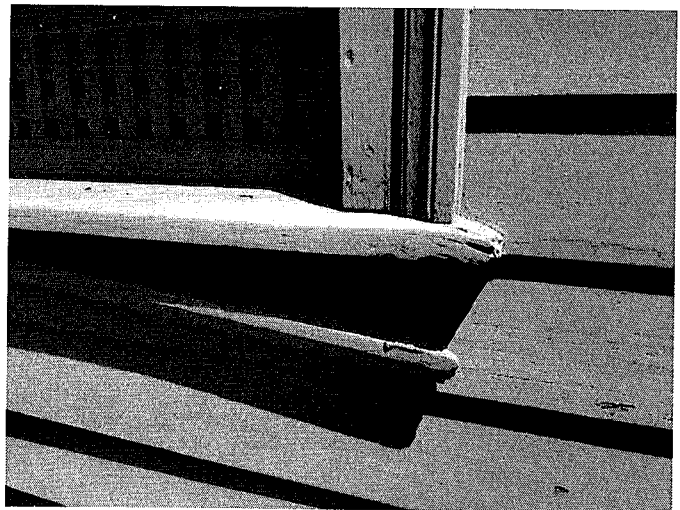
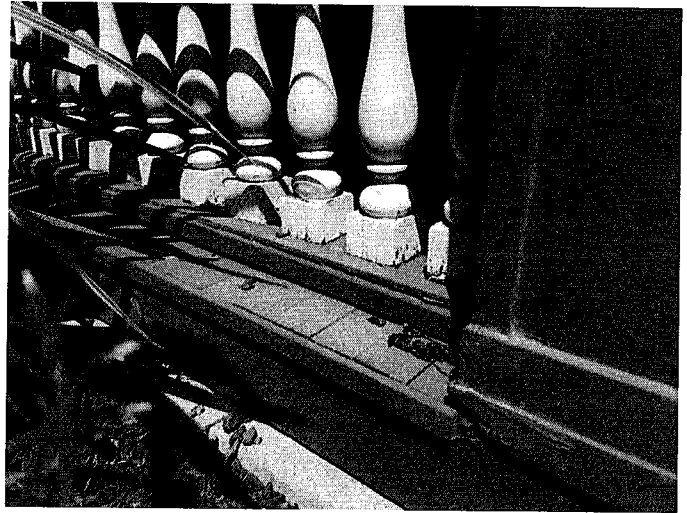
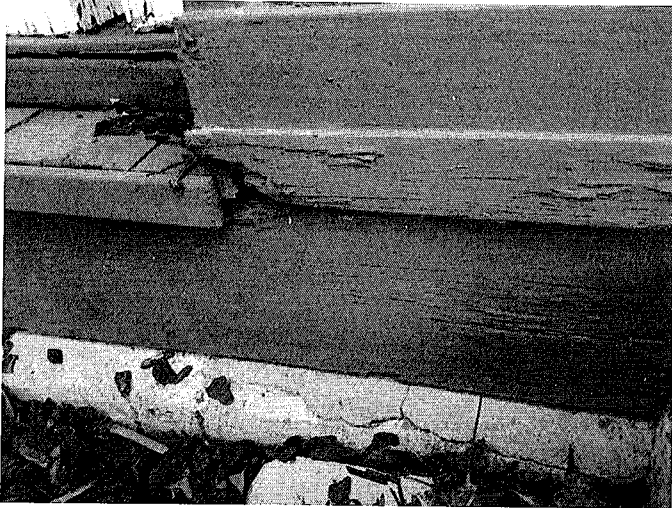
Work Program (see Attachment 5):

- repair moisture-related damage to wood structural and exterior elements
- replace inappropriate door and window
- exterior painting

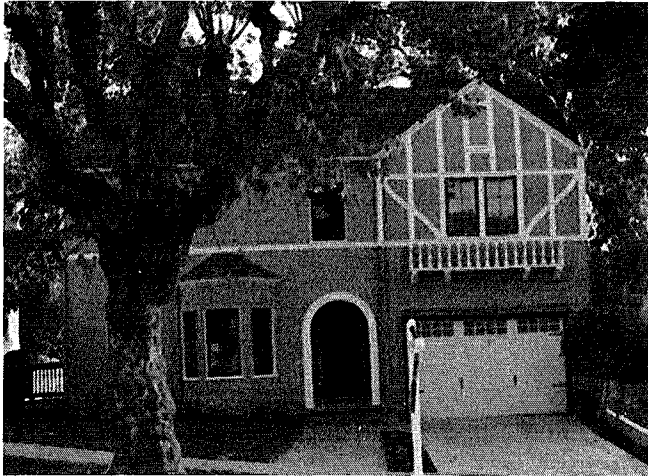
Application strengths

- maintenance and repair of vulnerable wooden house components
- potential catalyst for neighborhood and block improvement
- applicant has restored windows and thoroughly investigated building clues
- geographic diversity – first Mills Act project in Rose Garden neighborhood





LM18-006: **677 Longridge Road** (APN 11-885-20-2), Houck (Harry L.) spec house, 1925
 Applicant: Jennifer and Alexander Castro, owners/residents See Attachment 6



OCHS Rating: C2+ (preliminary/field, 1986): secondary importance, ASI contributor
 Heritage Property Eligibility Rating: B (26 points)

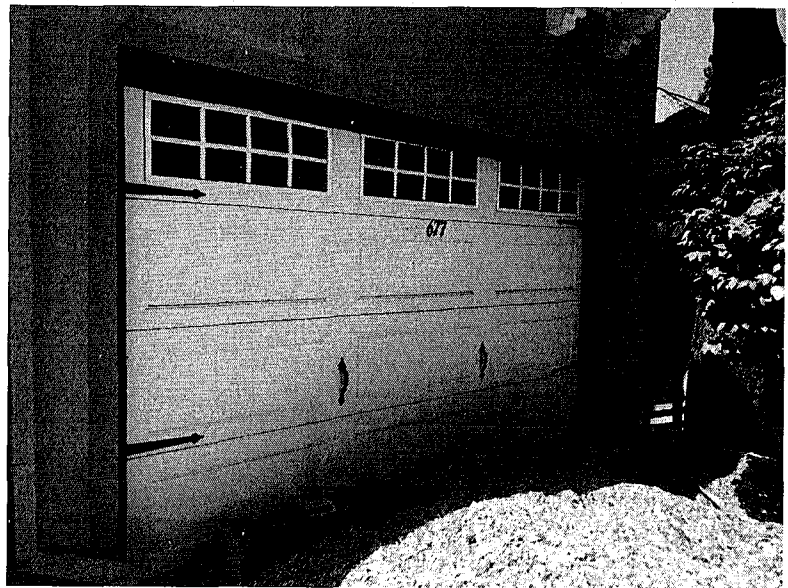
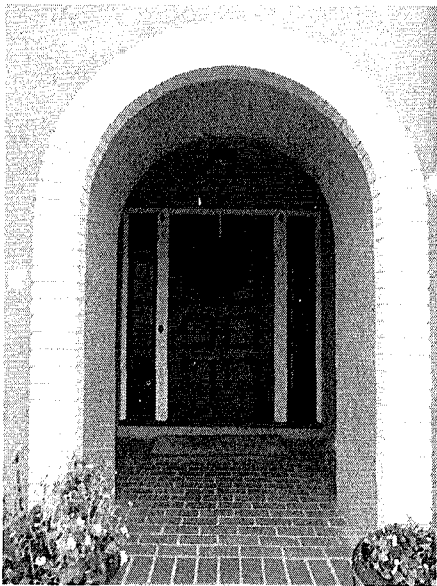
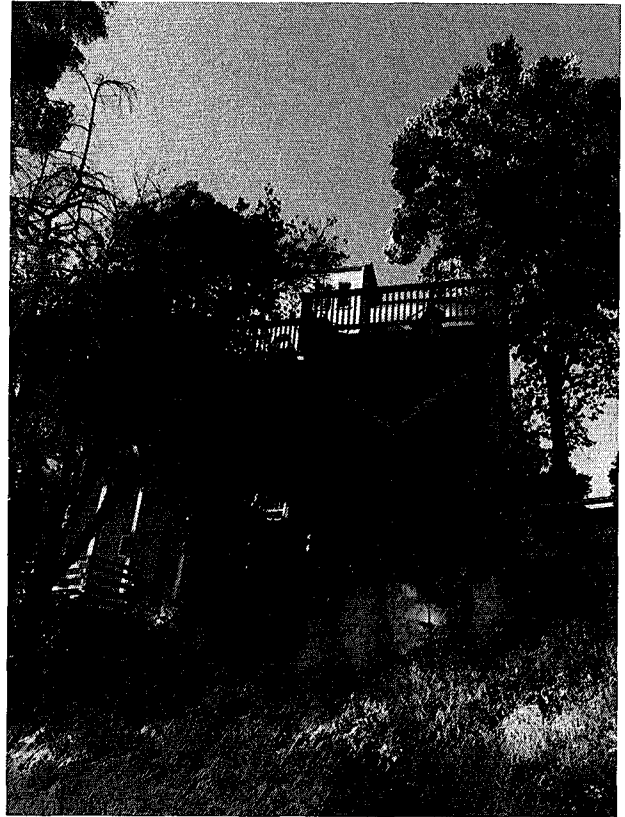
Work Program (see Attachment 5):

- earthquake and foundation retrofitting on extremely steep lot
- replace altered French door, picture window, and garage door
- exterior paint and stucco repair

Application Strengths:

- addresses structural stability in creek and hill area
- well thought out proposal describes additional work outside Mills contract
- potential neighborhood catalyst
- seventh in Lakeshore Homes tract, seeds of possible district designation





MA18-007: **5701 International Blvd.** (APN 41-3848-4-1);
City Council District 5, Zoning IG/S-19, City Landmark



OCHS Rating: A1+: primary importance, API contributor
Designated City Landmark, LM92-121

Work Program:

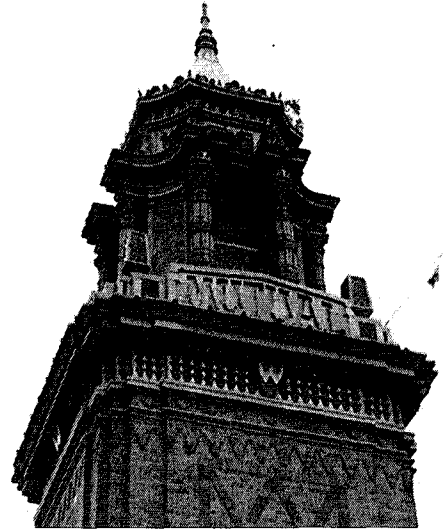
- Repair and reglazing of historic steel sash windows
- Restoration of primary entry door and grillwork
- Seismic bracing of tower – foundation and interior shear wall
- Restoration of brick masonry and terra cotta decorative elements
- Rehabilitation of historic main entry lobby, including plasterwork, paint, and lighting
- Restoration of flagpole and tower lighting

Application Strengths:

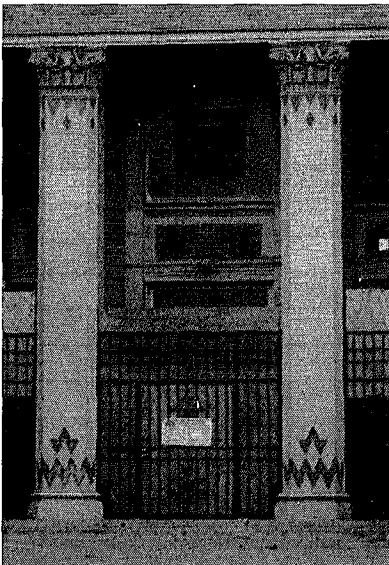
- Reuse and repair of underutilized, highly visible City Landmark
- Major economic and preservation catalyst project on East Oakland's main street
- Diversity of location and building type – second industrial building in Mills program
- Detailed specifications for products and techniques



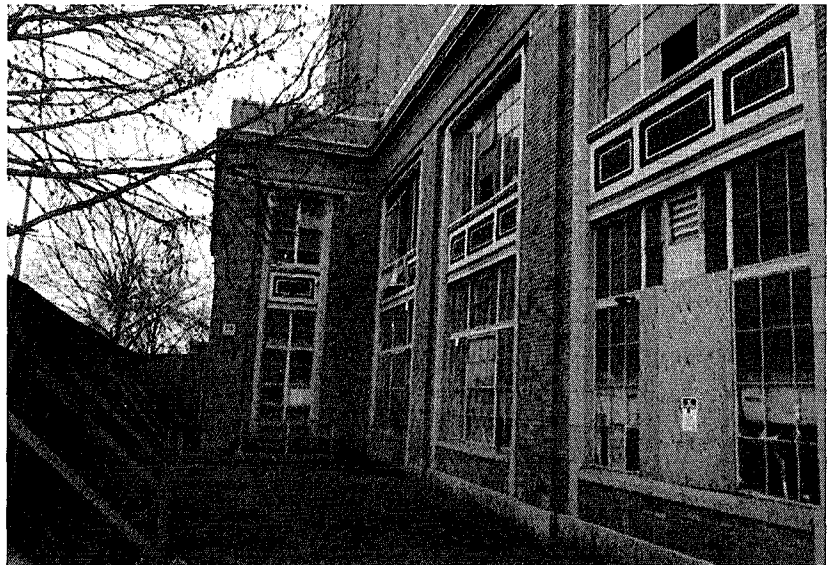
Rear (southwest) facade of the primary wing, looking north



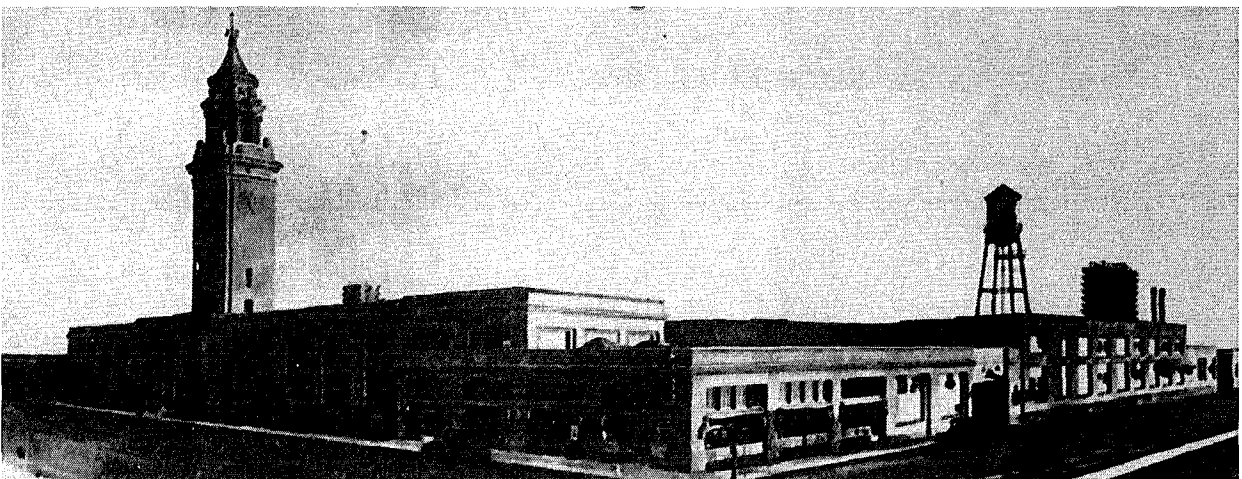
Multi-color brick, terra cotta, "Mutual" sign



Int'l Blvd entry: restore doors, terra cotta



Restoration and reglazing of historic steel windows



"The New Plant" - Drawing of the recently completed Mutual Stores building c.1928

MA18-008: 1419 12th Street (APN 4-63-4), Crase-Ackerman-Bacina house, 1892-93
 Applicant: Michael Bernasek & Sarah Krikorian, resident & owner See Attachment 8



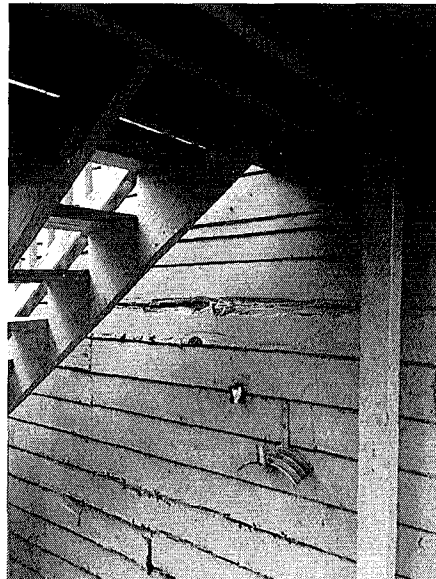
OCHS Rating: C1+: Determined eligible for National Register, contributor to Oakland Point API
 Heritage Property Eligibility Rating: B (25 points)

Work Program:

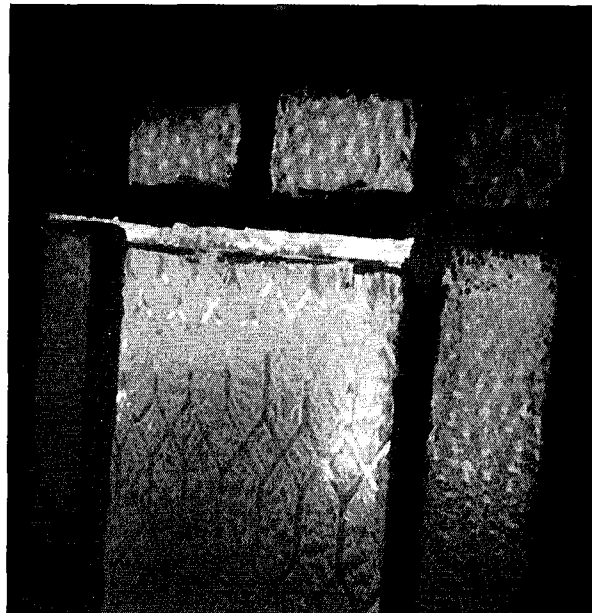
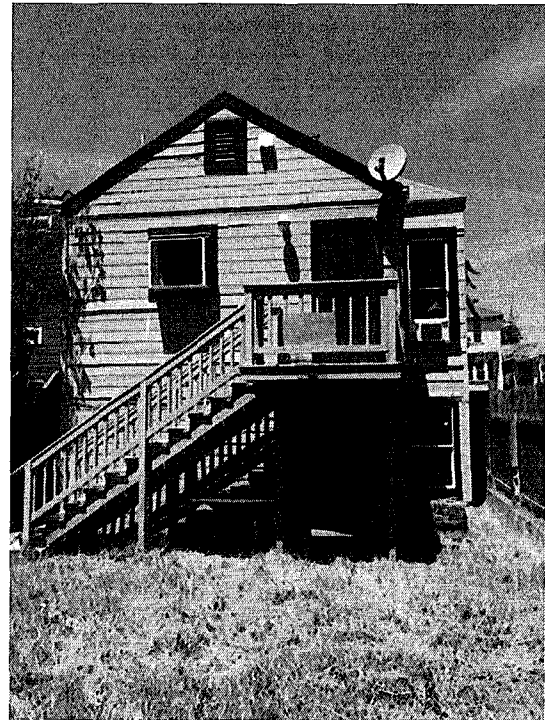
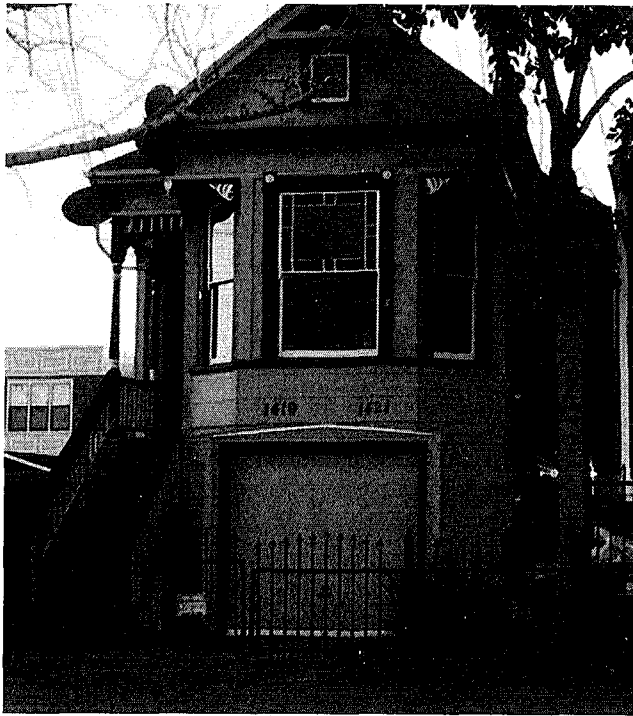
- Remove asbestos siding, repair/replace original horizontal redwood siding as needed, paint
- Repair/replace damaged or altered windows, all to be wooden double-hung rope-and-pulley
- Replace damaged/missing architectural details
- Repair/rebuild rotting front and rear staircase and porch to match historic design
- Replace historically inaccurate front door to match historic design
- Restore art glass window in entryway;
- Drainage and downspout repairs

Application Strengths:

- 15th Mills Act project in West Oakland; fourth project in Oakland Point API
- Detailed and well thought out work program



Asbestos siding beneath the sunburst, probably covering shingles; damage to wood siding



MA18-009: 2440 10th Avenue (APN 22-334-16), Kelly (William P.) house, 1885-86
 Applicant: Tae Ha, resident/owner See Attachment 9



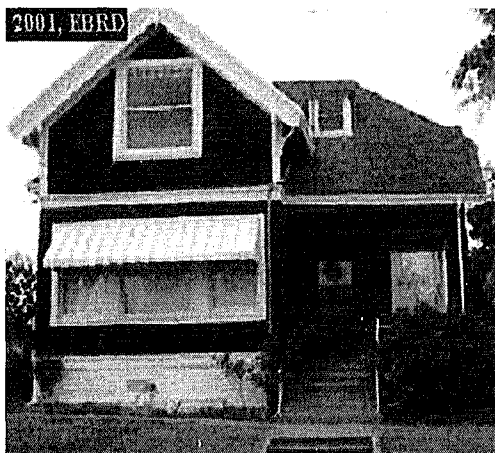
OCHS Rating: C2+ (preliminary/field, 1986): secondary importance, ASI contributor
 Heritage Property Eligibility Rating: B (24 points)

Work Program:

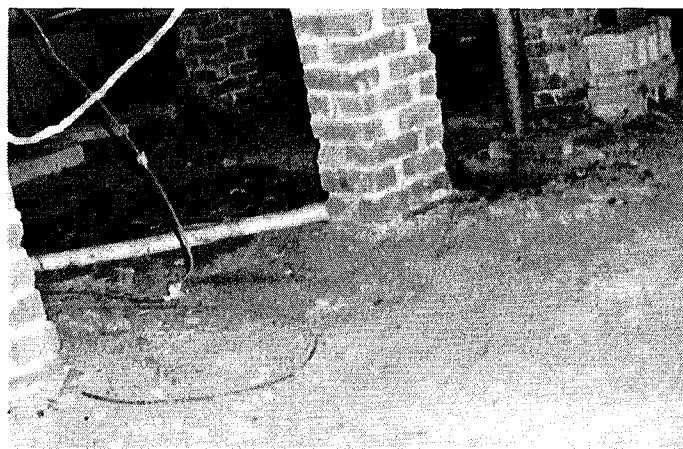
- Foundation repair and seismic reinforcement
- Removal of inappropriate exterior wood trim
- Repair exterior shingles, trim, and siding
- Exterior paint, three colors

Application Strengths:

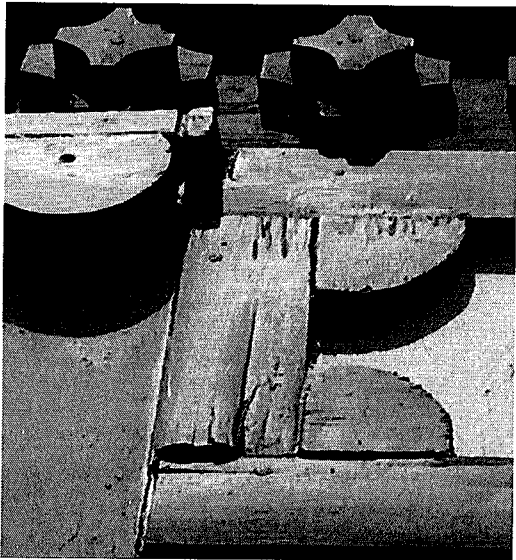
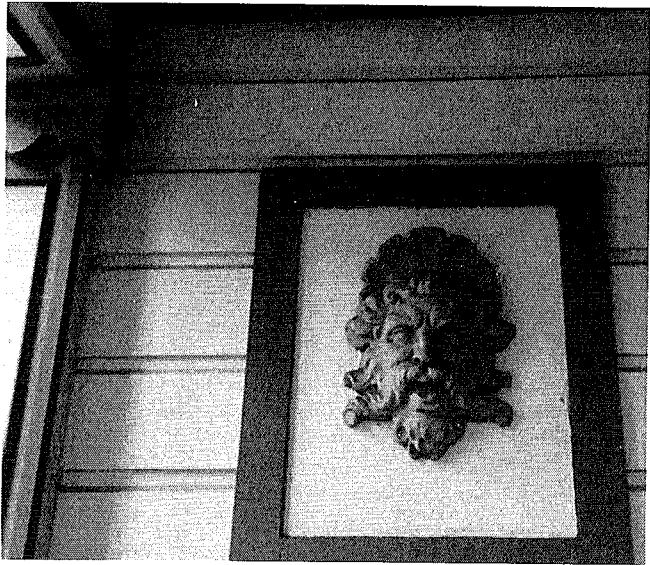
- Structural and exterior preservation
- Reversal of false-historical alterations
- Geographic diversity – East Oakland targeted in original Mills ordinance



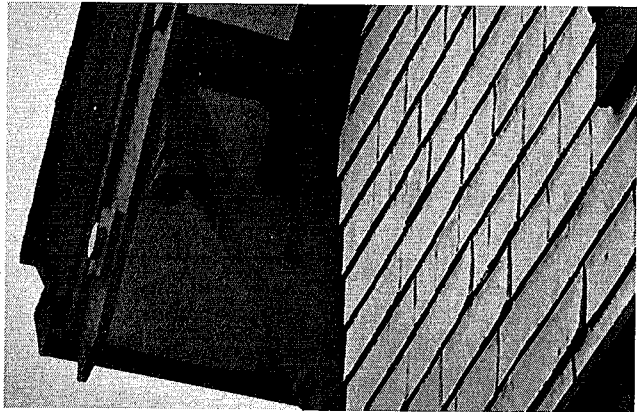
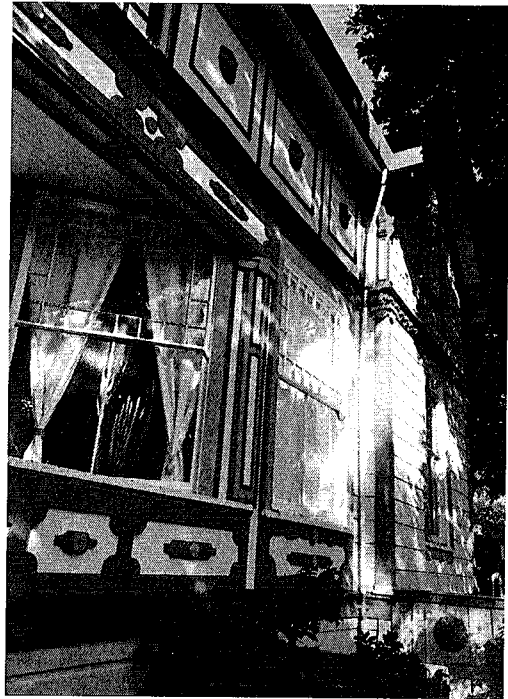
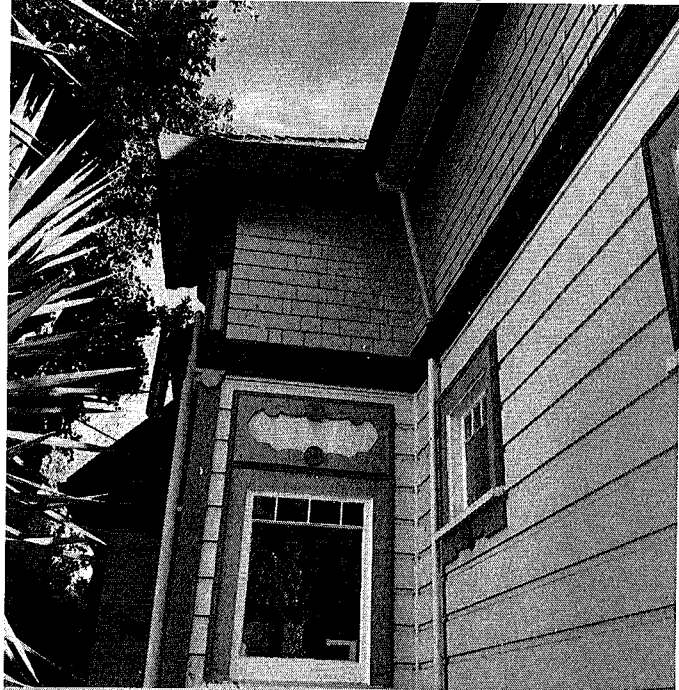
Undated photo attrib. to Assessor's office



Foundation work



Faux-Victorian appliques mixed with original surfaces, windows, brackets



CONTRACT CONDITIONS, ALL PROPERTIES

The Secretary of the Interior's Standards for Rehabilitation are incorporated as conditions in the Mills Act agreement (Attachment 10), and will apply whenever work is submitted for permits to carry out work program items. Especially in regard to windows, a significant item in most of 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 (9 pages, Attachment 10) 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

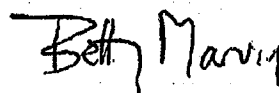
GEOGRAPHIC DISTRIBUTION

Attachment 11 is a map that illustrates geographic distribution of all current and proposed Mills Acts properties. One application this year is from West Oakland, a target area from the start of Oakland's Mills Act program; three are from East Oakland (Tompkins, International Blvd., and 10th Avenue); the others are from the Lakeshore/North Central area. As usual, inquiries about the program were received from all parts of Oakland during the year, and a larger number than usual followed up with complete applications.

RECOMMENDATIONS

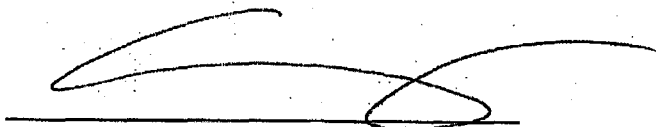
1. Receive any testimony from applicants and interested citizens;
2. Discuss and provide recommendations on Mills Act applications for 2018; and
3. Based on the above discussion:
 - a. Recommend all or selected applications to City Council for 2018 Mills Act contracts;
 - b. Forward the recommendations to the Planning Commission as an information item.

Prepared by:



BETTY MARVIN
Historic Preservation Planner

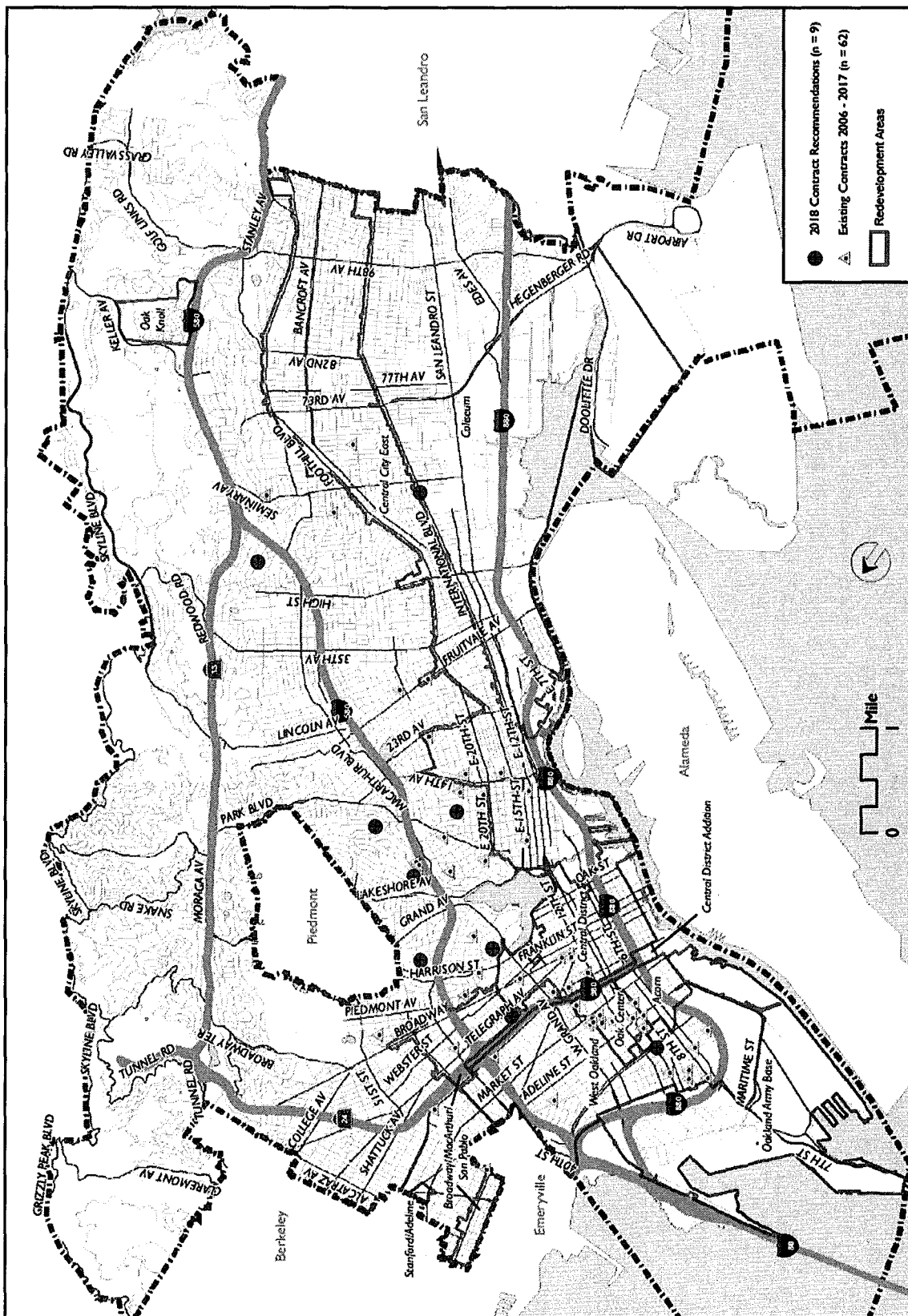
Approved by:



CATHERINE PAYNE
Acting Development Planning Manager

Attachments:

1. Application, work program, and photos: MA18-001: **4690 Tompkins Avenue**
2. Application, work program, and photos: MA18-002: **528 28th Street**
3. Application, work program, and photos: MA18-003: **260 Park View Terrace**
4. Application, work program, and photos: MA18-004: **1255 Trestle Glen Road**
5. Application, work program, and photos: MA18-005: **581 Vernon Street**
6. Application, work program, and photos: MA18-006: **677 Longridge Road**
7. Application, work program, and photos: MA18-007: **5701 International Boulevard**
8. Application, work program, and photos: MA18-008: **1419 12th Street**
9. Application, work program, and photos: MA18-009: **2440 10th Avenue**
10. Model Mills Act Agreement, including Secretary of the Interior's Standards for Rehabilitation
11. Location map, current and pending Mills Act properties, 2008-2018



Planning & Building Department
June 2018

Mills Act Contracts and Contract Recommendations



OFFICE OF THE CITY CLERK

2006 NOV 16 PM 4:26

APPROVED AS TO FORM AND LEGALITY
Mark F. Wood
DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE No. 12784 C.M.S.

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

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

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

WHEREAS, funding for a Mills Act study is provided per Mitigation Measures outlined in the Environmental Impact Reports for both the West Oakland Redevelopment Plan and the Central City East Redevelopment Plan; and

WHEREAS, the City Council approved the Johanna Favrot Fund for Historic Preservation Matching Fund Grant through the National Trust for Historic Preservation (Resolution No. 78297 C.M.S.) to assist the City with the analysis of the financial and fiscal implications of a Mills Act Program; and

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

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

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

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

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

NOW, THEREFORE,

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

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

SECTION 2. The City Council hereby adopts a two-year Mills Act Pilot Program, as detailed in the April 5, 2006 Report to the City Planning Commission and the December 5, 2006 City Council Agenda Report. During the two-year pilot program, there shall be a limit of ten (10) Mills Act contracts for the first year and a limit of twenty (20) contracts for the second year with the pilot program impact on City revenues limited to \$25,000/year or \$50,000 cumulatively for the two-year pilot program. However, rollovers of both applications and revenue impacts may be allowed, provided the total number of applications does not exceed thirty (30) and the total revenue impact does not exceed \$50,000 from the City and \$500,000 from the Redevelopment Agency for the two-year pilot program. Since implementing the Mills Act is a Mitigation Measure for both the West Oakland Redevelopment Plan and the Central City East Redevelopment Plan, the pilot program implementation will pursue a minimum of 20% of the 30 Mills Act Contracts (six contracts) from the Central City East Redevelopment Area and a minimum of 20% of the 30 Mills Act Contracts (six contracts) from the West Oakland Redevelopment Area.

The Landmarks Preservation Advisory Board shall review and consider all Mills Act contracts, which shall be in substantial conformance to the Model Mills Act Agreement (Exhibit A), and shall forward its recommendations to the City Council. If the City Council approves any Mills Act contracts, it shall do so by resolution.

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

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

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

SECTION 5. The City Council finds and determines that the requirements of the California Environmental Quality Act of 1970 (CEQA), the CEQA Guidelines, and the provisions of the Environmental Review Regulations of the City of Oakland have been met, and the actions authorized by this Ordinance are categorically exempt from CEQA under CEQA Guidelines Section 15331: Historical Resource Restoration/Rehabilitation.

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

IN COUNCIL, OAKLAND, CALIFORNIA, FEB 6 2007, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, ~~REID~~, and PRESIDENT DE LA FUENTE - 7

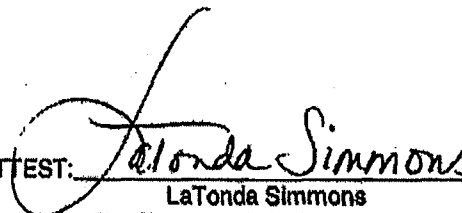
NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - Reid - 1

ATTEST:



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

Introduction Date: JAN 16 2007

FILED
OFFICE OF THE CITY CLERK
OAKLAND

10 JAN 11 AM 11:13
INTRODUCED BY COUNCIL MEMBER DELIA FUENTE

Corrected
APPROVED AS TO FORM AND LEGALITY
Mark P. Wall
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

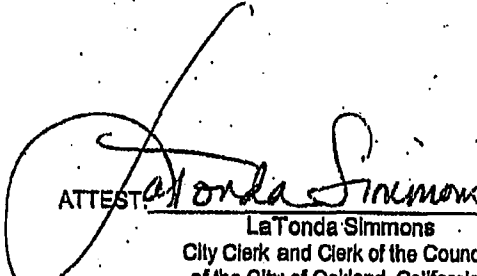
NOES- 0

ABSENT- 0

ABSTENTION- 0

Introduction Date: DEC - 8 2009

ATTEST:


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

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;

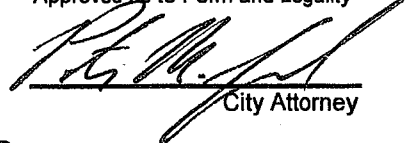
Graffiti;

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.

2010 OCT 10 AM 10:55

OAKLAND CITY COUNCIL

Approved as to Form and Legality


City Attorney

RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember _____

A RESOLUTION, AS RECOMMENDED BY THE LANDMARKS PRESERVATION ADVISORY BOARD, APPROVING NINE (9) MILLS ACT CONTRACTS BETWEEN THE CITY OF OAKLAND AND THE PROPERTIES AT 4690 TOMPKINS AVENUE (ESTIMATED \$42,825/YEAR PROPERTY TAX REDUCTION), 528 28TH STREET (ESTIMATED \$5,664/YEAR PROPERTY TAX REDUCTION), 260 PARK VIEW TERRACE (ESTIMATED \$9,083/YEAR PROPERTY TAX REDUCTION), 1255 TRESTLE GLEN ROAD (ESTIMATED \$14,239/YEAR PROPERTY TAX REDUCTION), 581 VERNON STREET (ESTIMATED \$3,075/YEAR PROPERTY TAX REDUCTION), 5701 INTERNATIONAL BLVD. (ESTIMATED \$15,835/YEAR PROPERTY TAX REDUCTION), 677 LONGRIDGE ROAD (ESTIMATED \$9,536/YEAR PROPERTY TAX REDUCTION), 1419 12TH STREET (ESTIMATED \$4,432/YEAR PROPERTY TAX REDUCTION), 2440 10TH AVENUE (ESTIMATED \$11,690/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 in the City of Oakland; and

WHEREAS, the Oakland City Council adopted a pilot Mills Act program on February 6, 2007, by Ordinance No. 12784 C.M.S. and a permanent Mills Act Property Tax Abatement Program for qualified historic properties on January 5, 2010, by Ordinance No. 12987 C.M.S.; and

WHEREAS, the implementation of the Mills Act Program meets numerous General Plan goals and policies, including housing rehabilitation, preservation of community character and identity, blight prevention, support of skilled building trades, sustainability, revitalization, and image; and

WHEREAS, the City has received nine Mills Act contract applications in 2018 from qualified properties, all of which are City of Oakland Designated Historic Properties: (1) 4690 Tompkins Avenue, a large long-vacant Spanish eclectic apartment building in the East Oakland hills, (2) 528 28th Street, a Craftsman duplex in the Northgate neighborhood, (3) 260 Park View Terrace,

a Brown Shingle house in Adams Point; (4) 1255 Trestle Glen Road, a Mediterranean house in the Lakeshore neighborhood; (5) 581 Vernon Street, a Colonial-Craftsman house in the Rose Garden neighborhood; (6) 5701 International Blvd., a landmark Beaux Arts industrial building in the former Coliseum Redevelopment Area, being rehabilitated for live/work use; (7) 677 Longridge Road, a Tudor Revival house in the Lakeshore neighborhood; (8) 1419 12th Street, a Queen Anne cottage in the Oakland Point district in the former West Oakland Redevelopment Area; and (9) 2440 10th Avenue, a Stick-Queen Anne house in the Bella Vista neighborhood; and

WHEREAS, eight of the properties were designated as Heritage Properties by the Landmarks Preservation Advisory Board on July 9, 2018, in conjunction with the Mills Act applications, and 5701 International Blvd. is City Landmark #114, designated by City Council in 1992; and

WHEREAS, rough estimates of 2019-20 tax reductions for individual properties range from \$3075 to \$42,825, for a total of \$116,279, all of which is required to be reinvested in restoration and upkeep of these historic Oakland properties; and

WHEREAS, the City receives approximately 27.28% of property taxes collected by Alameda County, so that the City's share of the potential \$116,279 Mills Act tax reductions would be approximately \$31,720; and

WHEREAS, the 2010 Ordinance Expanding and Making Permanent the Mills Act Property Tax Abatement Program capped fiscal impacts of new Mills Act contracts on City tax revenues at \$25,000 per year, plus up to \$500,000 impact on Redevelopment revenues; and

WHEREAS, thanks to rising Oakland property values, growing interest in the Mills Act program, and the elimination of Redevelopment, the first-year City revenue reduction from new 2018 Mills Act contracts has the potential to exceed for the first time the cap of \$25,000 impact on City property tax revenue, by up to approximately \$6,720; and

WHEREAS, the 2010 Ordinance Expanding and Making Permanent the Mills Act Property Tax Abatement Program provides that tax losses may exceed the ordinance's limits with special consideration by the City Council; and

WHEREAS, the Mills Act contract applications in 2018 include two large-scale adaptive reuse projects in East Oakland, 4690 Tompkins Avenue and 5701 International Boulevard, that provide a total of 99 units of housing and bring neglected and blighted buildings back into service, but account for approximately \$16,002 of City revenue reduction in addition to the \$15,718 reduction projected for seven small residential projects; and

WHEREAS, at a duly noticed meeting, the Landmarks Preservation Advisory Board on July 9, 2018, recommended all nine applications for contract approval for the 2018 Mills Act program and expressed support for a higher loss limit in view of the benefits of the specific nominated projects and the Mills Act program in general; 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 September 5, 2018; and

WHEREAS, the City Council Community and Economic Development Committee considered the matter at its October 23, 2018, duly noticed meeting and recommended its approval to the City Council; and

WHEREAS, the City Council considered the matter at its October 30, 2018, 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, including recognition of potential first-year property tax revenue reduction up to approximately \$31,720:

4690 TOMPKINS AVENUE, Oakland CA
528 28TH STREET, Oakland CA
260 PARK VIEW TERRACE, Oakland CA
1255 TRESTLE GLEN ROAD, Oakland CA
581 VERNON STREET, Oakland CA
5701 INTERNATIONAL BLVD., Oakland CA
677 LONGRIDGE ROAD, Oakland CA
1419 12TH STREET, Oakland CA
2440 10TH AVENUE 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