

Berkeley City Councilmember, Mark Humbert, District 8

mhumbert@cityofberkeley.info

Berkeley Mayor, Adena Ishii

Berkeley City Councilmember, Rashi Kesarwani, District 1

Berkeley City Councilmember, Cecilia Lunaparra, District 7

2180 Milvia Street, 5th Floor

Berkeley, CA 94704

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ACTION CALENDAR

November 18, 2025

To: Members of the Berkeley City Council

From: Councilmember Mark Humbert (Author), Mayor Adena Ishii (Co-Author), Councilmember Rashi Kesarwani (Co-Author), Councilmember Cecilia Lunaparra (Co-Author)

Subject: Pausing City of Berkeley authorization for Mills Act Agreements

RECOMMENDATION

Adopt a Resolution pausing the City of Berkeley's authorization to use Mills Act Agreements for historic property preservation, deferring or denying all pending applications as of November 19, 2025, and allowing existing contracts to expire without renewal unless the City Council takes future action to reauthorize the program.

FINANCIAL IMPLICATIONS

Mills Act contracts reduce City property tax revenues by providing tax relief to participating property owners. At a time when Berkeley faces significant short-term budget shortfalls and long-term structural deficits, pausing the program will prevent further erosion of the property tax base and allow existing contracts to expire naturally over their remaining terms, gradually restoring full property tax revenues to the City. Passing this item would also reduce staff time associated with the preparation and execution of Mills Act Agreements. This item would therefore incur no increased costs for the City and may, to a degree, improve the City's financial circumstances.

BACKGROUND

The Mills Act (California Government Code §50280 et seq.) was introduced in response to the potential demolition of the historic Hotel Del Coronado in southern California.¹ This State law authorizes, but does not require, cities to enter into contracts with owners of qualified historical properties to provide property tax reductions in exchange for commitments to maintain and restore the properties' historical characteristics. The Berkeley City Council authorized participation in the Mills Act program through Resolution No. 59,355-N.S. on February 24, 1998, enabling property owners to apply

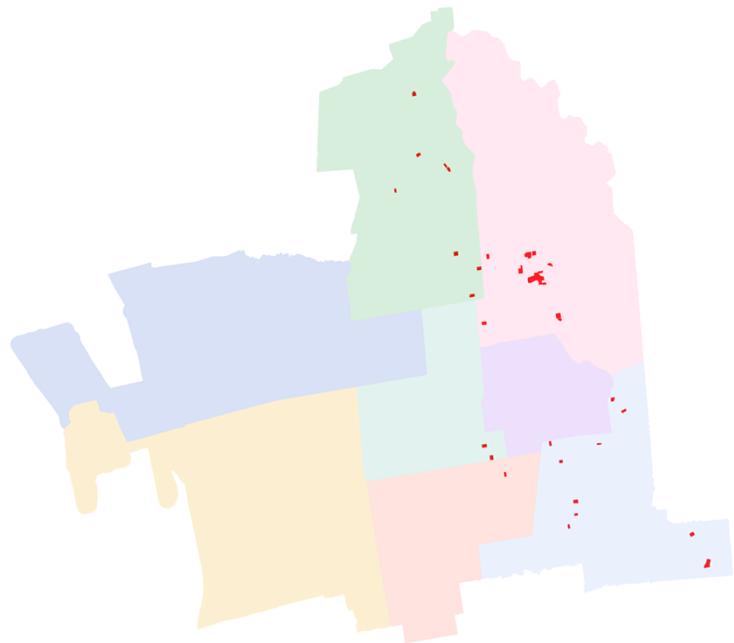
¹ Los Altos History Museum, *Historic Properties and the Mills Act Subject of History Museum Program*, <https://www.losaltoshistory.org/2021/04/historic-properties-and-the-mills-act-subject-of-history-museum-program/>, Accessed on October 9, 2025.

for these agreements. That original resolution included provisions empowering the City Manager to defer new and pending Mills Act contracts during times of fiscal distress.

CURRENT SITUATION AND ITS EFFECTS

As authorized by the City Council in 1998, the City currently administers multiple Mills Act Agreements. However, it is unclear whether that property tax relief is effectively promoting historic preservation that would not otherwise occur.

Berkeley's high home values and land values, combined with existing demolition prohibitions for designated landmarks, raise questions about whether the tax incentive is necessary to achieve preservation goals and whether the tax incentive is successful in achieving our preservation goals by supporting resource-limited property owners. Furthermore, available data indicate that the majority of Mills Act agreements are concentrated in high-resource areas of Berkeley.²



The City does not currently maintain a formal, publicly-accessible database or list of Mills Act agreements in Berkeley. Thankfully, citizen data sleuths have investigated this issue and created informal lists of such agreements, subject properties, estimated tax revenue losses, and what if any permits have been pulled for work on these properties. And the Landmarks Preservation Commission has also been investigating the cost/benefit balance of maintaining Mills Act Agreements.

These citizen-collected data indicate that the City currently has 47 Mills Act Agreements with a total net cost to the City of approximately \$600,000 annually. Moreover, in many cases, it is unclear at best whether these tax breaks have resulted in work essential to historic preservation. In many cases, the permits pulled for subject properties appear unrelated to the preservation of historic elements and instead include items such as

² Jeffrey Baker, *Berkeley Mills Act Parcels*, <https://observablehq.com/@jwb/berkeley-mills-act-parcels>, Accessed on October 9, 2025.

furnace replacement, solar panel installation, and interior remodels. In some cases, properties have received a tax benefit but appear not to have undergone any maintenance that required a City permit.³

RATIONALE FOR RECOMMENDATION

Pausing the Mills Act program is warranted for several reasons:

- Berkeley has already codified prohibitions on the demolition of designated City landmarks, providing a regulatory backstop for historic preservation without requiring tax subsidies.
- The City's high property values generally ensure that only those with the means to maintain historic properties can purchase them, reducing the need for financial incentives.
- The concentration of Mills Act contracts in high-resource areas raises equity concerns about the distribution of tax benefits.
- Given Berkeley's severe budget challenges, the ongoing revenue loss from Mills Act contracts exacerbates fiscal deficits. And the original 1998 resolution anticipated such circumstances by authorizing deferral during fiscal distress, making this action consistent with the program's original framework.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Historic preservation can, in some cases, support environmental sustainability by promoting the reuse and maintenance of existing building stock rather than demolition and new construction, which typically involves significant embodied carbon and resource consumption—although these environmental benefits may be outweighed through improved energy efficiency, removal of hazardous materials (e.g., lead paint), and increased housing in areas with jobs and transit access.

Nevertheless, this resolution does not eliminate Berkeley's historic preservation protections, as demolition prohibitions for designated landmarks remain. The pause of Mills Act Agreements addresses the financial mechanism for incentivizing preservation rather than the underlying preservation requirements themselves, and therefore would not significantly impact the City's environmental sustainability or climate goals.

POSSIBLE FUTURE ACTION

The City Council may choose to reauthorize the Mills Act program in the future if fiscal conditions improve or if the program can be restructured to better serve the City's goals.

³ Jeffrey Baker, *Berkeley Mills Act Contracts*, https://docs.google.com/spreadsheets/d/14OpRkSEjTsBovxD9Rb6eP0kOhUrFPCJ2_HEHl2xsSA0/edit?gid=0#gid=0, Accessed on October 9, 2025.

Potential modifications could include enhanced monitoring and accountability measures, income-based eligibility requirements to improve equity, concentration on properties facing genuine preservation threats, or limitations on the number or geographic distribution of contracts. The Council could also consider establishing performance metrics and requiring detailed preservation plans before approving future agreements. Any reauthorization would require Council action through a subsequent resolution.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

If the City Council chooses to reauthorize the Mills Act program in the future, there would be renewed fiscal impacts in the form of reduced property tax revenues from newly executed contracts. The magnitude of impact would depend on the number, assessed value, and tax reduction percentage of approved agreements. A restructured program with tighter eligibility criteria or caps on total contracts could limit fiscal exposure. Conversely, maintaining the current pause would allow property tax revenues to gradually return to full assessment levels as existing contracts expire, improving the City's long-term fiscal position. Any future reauthorization should include a fiscal analysis estimating the revenue impact based on the proposed program specifics.

CONTACT PERSON

Councilmember Mark Humbert — mhumbert@berkeleyca.gov, 510-981-7180

Attachments

1. *February 24, 1998 Resolution no. 59,355- N.S. Authorizing the use of Mills Act agreements for historic property preservation*
2. *Table showing citizen-created list of City of Berkeley Mills Act Agreements and associated information/cost estimates. (Provided courtesy of Jeffrey Baker and City of Berkeley Landmarks Commissioner Paul Schwartz)*

RESOLUTION NO. ##,###-N.S.

PAUSING CITY OF BERKELEY AUTHORIZATION FOR MILLS ACT AGREEMENTS

WHEREAS, California Government Code Sections 50280 et seq. (commonly known as the Mills Act) authorizes, but does not require cities to enter into contracts with the owners of qualified historical property to provide for such property's use, maintenance, and restoration as to retain its characteristics as property of historical significance; and

WHEREAS, the Council of the City of Berkeley authorized the use of Mills Act Agreements for historic property preservation in Resolution No. 59,355- N.S. on February 24, 1998; and

WHEREAS, the Mills Act was originally introduced in response to the potential demolition of the historic Hotel Del Coronado in southern California; and

WHEREAS, the City of Berkeley already has codified prohibitions on the demolition of designated City of Berkeley landmarks; and

WHEREAS, Berkeley home prices and land values generally preclude those who cannot afford to maintain historic properties from purchasing them; and

WHEREAS, the majority of Mills Act contracts in Berkeley are for parcels in high-resource areas of the city; and

WHEREAS, the City of Berkeley faces significant short-term budget shortfalls and long-term, structural budget deficits; and

WHEREAS, Mills Act contracts reduce City property tax revenues, thereby exacerbating budget shortfalls; and

WHEREAS, this directive is consistent with provisions of the original February 24, 1998 Mills Act enabling resolution NO. 59,355- N.S. from the Berkeley City Council, which empowered the City Manager to defer new and pending Mills Act contracts during times of fiscal distress.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley revokes authorization of the use of the agreements for historic property preservation as specified in California Government Code Sections 502008, et seq., for qualified historical properties as of November 19, 2025.

BE IT FURTHER RESOLVED, that all pending applications as of the effective date hereof (November 19, 2025) shall be deferred or denied unless and until the City Council takes further action to reauthorize the use of the agreements for historic property preservation as specified in California Government Code Sections 502008, et seq., for qualified historical properties.

BE IT FURTHER RESOLVED, that any existing Mills Act Contracts shall be allowed to expire at the end of their contract terms and shall not be considered for renewal unless and until the City Council takes further action to reauthorize the use of the agreements for historic property preservation as specified in California Government Code Sections 502008, et seq., for qualified historical properties.

BE IT FURTHER RESOLVED, that City staff are directed to update the City website to indicate that Mills Act Agreement applications are no longer being accepted and to remove application forms and materials.