

RESOLUTION NO. 14-R-12973

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
BEVERLY HILLS AMENDING THE MILLS ACT PILOT  
PROGRAM AND APPROVING A THREE YEAR EXTENSION  
OF THE PILOT PROGRAM

Section 1. On April 21, 2011 the City Council directed City Staff to develop a Mills Act Program for the City of Beverly Hills to incentivize the preservation, maintenance, and rehabilitation of historic properties.

Section 2. On October 18, 2011 the City Council approved the establishment of a two year Pilot Mills Act Program in the City of Beverly Hills from January 1, 2012 until December 31, 2013.

Section 3. The City's Pilot Mills Act Program provides property tax reductions to property owners of qualified properties who agree to invest in the preservation and rehabilitation of qualifying historic properties. Pursuant to Government Code Section 50280 et seq. ("the Mills Act"), the City Council may establish a program pursuant to which the City may enter a historical property preservation agreement ("Preservation Agreement") with an owner of a historic property for the purposes of preservation, rehabilitation, and maintenance of a designated historic resource in accordance with the United States Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and applicable City codes ("Mills Act Program"). The Preservation Agreement allows the owner to receive a reduction in property taxes in exchange for the property owner's commitment to repair, restore, rehabilitate, and/or maintain the historic property.

Section 4. The preservation and rehabilitation of historic properties enhances the character of Beverly Hills by retaining the City's sense of place and continuity with the community's past. As a matter of public policy, the identification, designation, preservation, enhancement, perpetuation and use of improvements, buildings and structures within the City that reflect special elements of the City's cultural, historical, agricultural, architectural, artistic, educational, or economic heritage is in the interest of the health, economic prosperity, cultural enrichment and general welfare of the people. Preservation of historic resources is an important aspect of tourism. By encouraging property owners to maintain and restore historic buildings and landscapes, the City is preserving its history and supporting the local economy.

Section 5. The City's General Plan Historic Preservation Element includes policies related to preserving resources that represent the City's history and culture or contribute to the City's special character and unique identity. Specifically, General Plan Policies HP 1.4 and 1.4a, and Program 2.3, focus on the development of financial and regulatory incentives, such as the Mills Act Program, to protect significant historic resources.

Section 6. The City of Beverly Hills Municipal Code has established procedures for identifying and designating historic resources. The Historic Preservation Code (City of Beverly Hills Municipal Code, Title 10, Chapter 3, Article 32. Historic Preservation) is intended to protect buildings, structures, and sites that are of particular historic or cultural significance and define the City's heritage and historic development. The City's Cultural Heritage Commission is designated to serve in an advisory capacity to the City Council on the preservation of historic and cultural landmarks. In this capacity, the Cultural Heritage Commission and the Community Development Department, which is the department that

supports the Cultural Heritage Commission, are positioned to administer programs the City establishes for rehabilitating, restoring, maintaining and preserving historic structures, including a Mills Act Program.

Section 7. On December 4, 2012, City Council requested the Planning and Cultural Heritage Commissions to review the goals and policies of the City's Pilot Mills Act Program and report back to City Council regarding the Pilot Program and its possible extension beyond 2013.

Section 8. At its meeting on September 12, 2013 the Planning Commission received the recommendations of the joint sub-committee and the Cultural Heritage Commission and reviewed and re-evaluated the goals and policies shaping the City's Pilot Mills Act Program. To further reinforce the program goals, the Planning Commission recommended the following clarifications and adjustments to the City's Pilot Mills Act Program goals and policies:

1. Require local landmark application by applicants independently of and before any Mills Act application whether or not a Mills Act application would eventually be successful. The Mills Act Program is a historic preservation incentive and participation in the program should be limited to owners of local landmark properties.
2. Consider giving individual properties or districts listed on the National Register automatic listing onto the Local Register just as the State currently automatically lists any National Registrations. This provision would apply prospectively to any future National Register properties in the City of Beverly Hills not currently on the National Register and will make the Mills Act incentive automatically available to these properties.

3. Introduce a cap on the tax assessed value of participating properties of \$10.0M for any Single-Family Dwellings, Multi-Family Dwellings or Commercial Properties (no longer limited only to commercial properties constructed as a public theater as a primary use), with the possible exemption from these property value limitations in exceptional circumstances for properties with cultural-historic and/or architectural value to the community. The \$10.0M cap on the tax assessed value of participating properties is an amount that would embrace most properties in the City and the provision of a possible exemption to this rule for outstanding properties of greater value seems prudent and fair to all property owners.

To be considered for possible exemption from the cap on the tax assessed value for participating properties, the following criteria will be used to establish exceptional circumstances:

- a) The structure has cultural-historic and/or architectural value to the community.
- b) Granting an exemption will assist in the preservation of a structure (including unusual and/or excessive maintenance requirements) that would otherwise be in danger of demolition, substantial alteration affecting the integrity of the structure, or relocation.

- c) Properties applying for a valuation exemption should be required to provide (as a part of the application) a Historic Structures Report (HSR) to substantiate the exceptional circumstances for granting the exemption. The HSR shall conform to the requirements outlined in National Parks Service, Preservation Brief 43 – The Preparation and Use of Historic Structures Reports. The City of Los Angeles currently requires a HSR be supplied for all properties valued above \$1.5M.
  - d) Granting of any exception will not cause the maximum annual cumulative loss of property tax revenue to the City to be exceeded.
4. Incorporate into the Mills Act contract, an acceptable mediation process to assist in the remedy of any breach under an approved Mills Act contract. In addition, provide an opportunity for a property owner to agree to reimburse the Beverly Hills Unified School District (BHUSD) each year for the BHUSD loss of tax revenue associated with the Mills Act Contract, and in exchange the City Council would agree as part of the Mills Act contract to pursue litigation to remedy any breach and not to cancel the Mills Act Contract and impose the associated cancelation penalty costs of 12.5% of the property value against the owner.
5. Provide a three year extension of a Pilot Mills Act Program beyond the initial two year Pilot Program from January 1, 2014 to December 31, 2016, with an increased annual cap on lost property tax to the City not to exceed \$100,000.00 in a single year, and not exceeding \$1Million projected over the ten year term for Mills Act contracts with the

City. The corresponding impact on Beverly Hills Unified School District (BHUSD) funding through lost property tax revenue would be up to \$80,000.00 per annum and not exceeding \$800,000 when projected over ten years.

Section 9. At the meeting of December 5, 2013 City Council reviewed a staff report regarding the goals and policies of the City's Pilot Mills Act Program and the proposed three (3) year extension of a revised Mills Act Pilot Program from January 1, 2014 to December 31, 2016. At that time City Council directed staff to reach out to the Beverly Hills Unified School District Board to review the current program and the fiscal implications of a possible extension of an amended Mills Act Pilot Program beyond the initial two year Pilot Program to December 31, 2016 and with an increased cap on lost property tax to the City not to exceed \$100,000 in a single year, and not exceeding \$1,000,000 projected over the ten year term for Mills Act contracts with the City. The corresponding fiscal impact on Beverly Hills Unified School District (BHUSD) funding through lost property tax revenue would be up to \$80,000.00 per annum and not exceeding \$800,000 when projected over ten years.

Section 10. On January 7, 2014 City staff was pleased to make a presentation to the Beverly Hills Unified School District Board and to discuss the fiscal implications of the proposed three (3) year extension of a revised Mills Act Pilot Program from January 1, 2014 to December 31, 2016. On that occasion the School Board offered its support for the three year extension of the revised Mills Act Program and requested the City and the School Board look for ways to partner in providing educational opportunities for students to increase awareness of local

history and our architectural heritage. The Cultural Heritage Commission has also expressed their willingness to assist in this worthwhile endeavor.

Section 11. On March 4, 2014, the City Council adopted this resolution extending the City's Pilot Mills Act Program by three years, from January 1, 2014, expiring on December 31, 2016 and adopted the amendments to the Mills Act Pilot Program as recommended by the Planning Commission and as modified by Staff, and as set forth herein.

Section 12. Staff agrees with the actions of the Planning Commission, supported also by the Cultural Heritage Commission to recommend a three (3) year extension of an amended Pilot Mills Act Program from January 1, 2014 to December 31, 2016 but recommended the cap on the tax assessed value of participating properties be reduced from \$10.0M to \$7.5M for any Single-Family Dwellings, Multi-Family Dwellings or Commercial Properties. This would restrict participation in the revised Pilot Mills Act Program for properties valued above \$7.5M unless a subject property satisfies the requirements for exemption from the cap on the tax assessed value limitations including significant cultural-historic and/or architectural value to the community. Staff also supported the proposed incremental increase to the annual cap on lost property tax to the City from \$50,000.00 to \$100,000.00 per annum, (with a corresponding maximum annual loss to BHUSD of up to approximately \$80,000.00 per annum) to allow for additional properties to participate in the extended Pilot Program.

Staff also agreed with the proposal to give property owners of individual properties listed on the National Register automatic listing onto the Local Register just as the State currently automatically lists any National Registrations provided that automatic listing onto

the Local Register is optional on the part of property owners wanting to participate. This provision would allow property owners wanting to participate to have their National Register properties automatically listed onto the Local Register, thereby making the Mills Act incentive immediately available for qualifying properties.

Section 13. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the City evaluated the action of approving an extension of an amended Mills Act Pilot Program from January 1, 2014 to December 31, 2016. The extension of an amended Mills Act Pilot Program establishes a property tax reduction for property owners that rehabilitate, restore, maintain, and preserve properties that are determined to be of historic significance. The extension of an amended Mills Act Pilot Program does not authorize any new development or construction of buildings, nor does it authorize any new land uses. The extended program encourages the continued use of existing structures and the continuance of existing land uses. For these reasons it can be seen with certainty that the three year extension of an amended Mills Act Pilot Program will not result in any significant adverse impact on the environment. Thus, the extension of an amended Mills Act Pilot Program to December 31, 2016, is exempt from the CEQA environmental review requirements pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations. Further, the extension of an amended Mills Act Pilot Program to December 31, 2016, would be categorically exempt from environmental review pursuant to section 15331 of the CEQA Guidelines, which exempts projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving,

Rehabilitating, Restoring, and Reconstructing Historic Buildings (Weeks and Grimmer, 1995) in that it is an incentive program the results in the preservation and maintenance of historic resources in exchange for property tax reductions. In addition, the extension of an amended Mills Act Pilot Program to December 31, 2016, is categorically exempt from CEQA, pursuant to CEQA Guidelines Section 15308 because it is an action by a regulatory agency (the City) to maintain, restore and protect the environment through protection of historical resources in the community.

Section 14. The three year extension of the amended City of Beverly Hills Mills Act Pilot Program (Mills Act Program) from January 1, 2014 to December 31, 2016, shall go into effect at midnight on March 4, 2014, and shall continue in effect, until midnight on December 31, 2016. To allow adequate processing time, new applications for preservation agreements shall be accepted at any time between January 1 and May 31 of each calendar year the Pilot Program is in effect. No new applications will be accepted into the program after May 31, 2016, unless a permanent Mills Act Program is established to supersede the Mills Act Pilot Program. If a permanent Mills Act Program is not established, preservation agreements recorded prior to January 1, 2017, shall continue in effect, unless terminated or cancelled in accordance with the Mills Act.

Section 15. A “qualified historic property” for the purposes of the Beverly Hills Mills Act Pilot Program shall be defined as:

- a. A single-family residential property, a multi-family residential property or a commercial property with a tax assessed value not exceeding \$7.5 million dollars, unless exempted from the maximum tax assessed value through exceptional circumstances;

- b. Located entirely within the City of Beverly Hills;
- c. Privately owned;
- d. Not exempt from property taxation; and
- e. Individually listed in the City of Beverly Hills' official landmark register.

Section 16. To limit any fiscal impact of the Mills Act Pilot Program, the City of Beverly Hills shall limit annual revenue loss from property tax revenues to \$100,000 each year. To further limit any fiscal impact, the City of Beverly Hills shall not enter into or execute more than three (3) preservation agreements per calendar year during the term of the Mills Act Pilot Program.

Section 17. The City Council hereby delegates to the Director of Community Development or his or her designee, with review by the City Attorney, the authority and responsibility to develop, maintain, and amend, as necessary, an application, administrative guidelines, and forms of Preservation Agreements for properties seeking qualification and participation in the Mills Act Pilot Program. The Director of Community Development or his or her designee shall, as necessary, establish priority consideration criteria whereby such criteria shall be used to rank applications in terms of the preservation and rehabilitation needs of each property and prioritize selection of applications. The Director of Community Development or his or her designee shall also report on an annual basis to the City Council the number of Mills Act preservation agreements executed and the effectiveness of the Mills Act Pilot Program. The terms of the Preservation Agreement shall comply with Government Code Section 50280 et seq. The maintenance, repair, rehabilitation, and/or restoration standards applicable to the subject property shall be set forth in the Preservation Agreement. In consideration of abiding with the

terms of the Preservation Agreement, the owner of the subject property shall be entitled to qualify for a reassessment of the historic property pursuant to State Revenue and Taxation Code Section 439 et seq.

Section 18. The City Council hereby delegates to the Cultural Heritage Commission the authority and responsibility to review and make recommendations to the City Council on applications submitted pursuant to the Mills Act Program. The City Council shall be the final authority on the authorization and approval of Preservation Agreements pursuant to the Mills Act Pilot Program.

Section 19. Preservation Agreements will have a minimum contract term of ten (10) years, with automatic renewal on an annual basis, shall be recorded against title to the property and run with the land. Owners shall maintain the regulated characteristics of historical significance of the historic property in accordance with the rules and regulations of the State Office of Historic Preservation of the Department of Parks and Recreation, the United States Secretary of the Interior's Standards for Rehabilitation, the State Historical Building Code, and any applicable local codes and policies. Owners must allow reasonable periodic examination of the interior and exterior of the premises, if a request is made by representatives of the County Assessor, State Office of Historic Preservation Department of Parks and Recreation, the State Board of Equalization, and/or the City's Community Development Director or his or her designee to determine the owner's compliance with the Preservation Agreement. No Preservation Agreement may be cancelled without compliance with Government Code Section 50280 et seq., which requires notice and a public hearing by the City Council.

Section 20. The City Council shall establish fees for the processing of applications for Preservation Agreements and other matters required by the Mills Act Pilot Program, as legally permissible by State and local law.

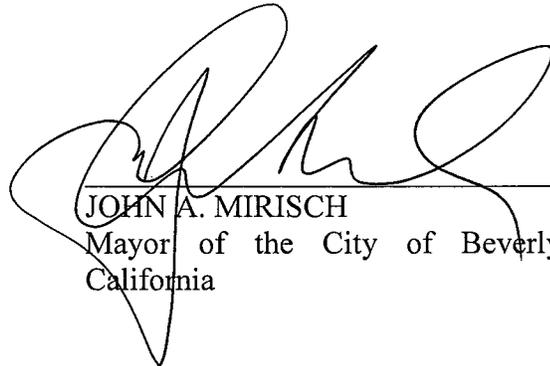
Section 21. The record of proceedings for a three year extension of an amended Mills Act Pilot Program is maintained by the City as part of the official records of the Community Development Department at 455 North Rexford Drive, Beverly Hills, California, 90210.

Section 22. An amended Mills Act Pilot Program is hereby established based on the parameters included in this resolution to implement the State of California Mills Act in the City of Beverly Hills on a trial basis.

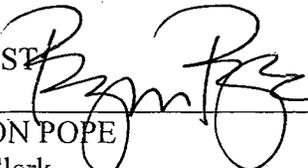
Section 23. The City Clerk shall certify to the adoption of the Resolution and shall cause the Resolution and his certification to be entered in the Book of Resolutions of the Council of the City.

Section 24. This Resolution shall go into effect on March 4, 2014.

Adopted: March 4, 2014



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JOHN A. MIRISCH  
Mayor of the City of Beverly Hills,  
California

ATTEST  (SEAL)  
\_\_\_\_\_  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:



\_\_\_\_\_  
JEFFREY KOLIN  
City Manager



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SUSAN HEALY KEENE  
Director of Community Development