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Our File No. 35010

September 17, 2025

VIA ELECTRONIC MAIL ONLY

Lisa Krause
Senior Housing Policy Specialist
California Department of Housing and Community Development
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Re: **Submission of Additional Information re Applicable Surplus Land Act Exemptions for SLA Case SLA0001378**

Dear Lisa,

We respectfully submit this supplemental legal analysis for HCD's consideration regarding the exempt status of a portion of Kit Carson Park ("Park") for a public-private partnership with the public benefit nonprofit, The Rinks Foundation, to construct and operate an indoor ice rink for private and public use (SLA Case SLA0001378).

In short, the Project should be considered exempt surplus land under the Surplus Land Act ("SLA")[1] as a valid legal exemption not imposed by the local agency ("Restriction Exemption")[2], and that the Project qualifies as an "Agency Use"[3] because:

- The Park qualifies for the Restriction Exemption because it was purchased with voter-approved bond funds that legally limit its use to park purposes. Since voters did not authorize any alternative use, this restriction cannot be avoided without voter approval. It is not reasonable, nor required by the SLA, for the

[1] Gov. Code, § 54220 et seq.
[2] Gov Code, § 54221(f)(J)(i).
[3] Gov Code, §§ 54221(b)(1) and 54221(c)(1).

City to undertake the expense to obtain voter approval to change the use of land.

- The legislative history of the SLA is clear that voter-approved measures are valid legal restrictions under the Restriction Exemption.
- "Local agency" is limited to political subdivision of the state and any instrumentality thereof that is empowered to acquire and hold property and does not include voters.
- The Project qualifies as an exempt "agency use" under the SLA because it supports conservation of parkland through expanded year-round recreation and long-term City control with a reverter lease clause, and is operated by a nonprofit serving the public, rather than commercial interests.

I. Background

The City of Escondido owns and operates the Park and currently intends to lease a portion of the Park to The Rinks Foundation for approximately 50 years. The purpose of the lease is to facilitate the development and long-term operation of the indoor ice rink facility ("Project"), which will serve both community and private recreational needs. The City's proposed lease terms require a reverter clause to ensure the Park's ongoing conservation as a public park, preserving both community benefit and voter intent to use the site as a park.

The Park was acquired following voter approval of a bond measure in 1966 (the "Bond Measure"), which authorized the City to incur bonded indebtedness in the principal amount of $825,000 for the acquisition and construction of a park site from the City of San Diego.[4] The Bond Measure's ballot language and related materials clearly limited the use of these funds to park acquisition and basic utility infrastructure, with the intent that the site be used exclusively for park purposes if acquired. Copies of the ballot language and related materials are enclosed for your reference.

II. Restriction Exemption

To qualify for the Restriction Exemption, the local agency must prove that the surplus land is subject to a legal restriction that: (1) was not imposed by the local agency,

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[4] City of Escondido Resolution No. 3539.

(2) completely prohibits housing development, and (3) cannot be feasibly mitigated or avoided.[5]

The City asserts that the Park qualifies for the Restriction Exemption because the source of funding used to purchase the Park - a voter-adopted Bond Measure - imposes a legal restriction limiting the Park's use exclusively to park purposes because the voter's did not expressly approve any other use at the Park. This restriction cannot be feasibly avoided, as any change in use would require voter approval.

A. The Bond Measure is a Valid Legal Restriction Imposed By Source of Funding, and Not the City

HCD asserts the Bond Measure is "imposed by the local agency" by relying on *Mulkey v. Reitman*[6]. Under *Mulkey*, the electorate acts as a "state agency" under the Equal Protection Clause[7] when passing laws through ballot measures, making voter-approved restrictions legally equivalent to those imposed by elected officials. The application of the case, while perhaps appropriate in an Equal Protection analysis, is contrary to the SLA's plain language and clear legislative intent.

1. Electorate is Not a "Local Agency" under the SLA

Statutory interpretation follows a three-step process aimed at ascertaining legislative intent and adopting constructions that best effectuate the law's purpose.[8] Courts begin by examining the plain meaning of statutory language, as this provides the most reliable indicator of legislative intent.[9] When the text proves ambiguous or fails to resolve interpretive questions, courts proceed to analyze the statute's legislative history and enactment circumstances, often employing secondary interpretive rules such as construction maxims that reflect conventional language usage.[10] If ambiguity persists after this analysis, courts apply practical reasoning and common sense to the statutory

[5] Gov Code, § 54221(f)(J)(i).
[6] *Mulkey v. Reitman* (1966) 64 Cal.2d 529.
[7] U.S. Const., 14th Amend.
[8] *Smart Corner Owners Assn. v. CJUF Smart Corner LLC* (2021) 64 Cal.App.5th 439, 459 (quoting *Klein v. United States of America* (2010) 50 Cal.4th 68, 77).
[9] *Id.*
[10] *Id.*

language, carefully considering the consequences that would flow from particular interpretations to resolve remaining uncertainties.[11]

The plain language of the SLA's definition of "local agency" makes clear that a local agency is a local government:

> " 'Local agency' means every city, whether organized under general law or by charter, county, city and county, district, including school, sewer, water, utility, and local and regional park districts of any kind or class, joint powers authority, successor agency to a former redevelopment agency, housing authority, or other political subdivision of the state and any instrumentality thereof that is empowered to acquire and hold property."[12]

Thus, under the SLA, only California political subdivisions that possess both the authority and ability to acquire and hold property qualify as local agencies. The electorate of a political subdivision cannot meet this definition because it is not a legal entity and lacks any authority to acquire or hold property. The City of Escondido, on the other hand, is a "local agency" under the SLA because it is a general law city statutorily authorized to acquire and hold property.[13]

Given the plain language of this definition and the Restriction Exemption, the exemption applies unless the municipal corporation of the City acted through its legislative body to impose use restrictions on the Park. Further, nothing in the definition of local agency, the Restriction Exemption, or any other provision of the SLA supports that the electorate wields the same power as the City to impose a valid legal restriction on land under the SLA.

2. The SLA's Legislative History is Clear That Voter-Approved Measures Are Not Imposed By the Local Agency

In 2019, Assembly Bill 1486 ("AB 1486") amended several provisions of the SLA. These amendments included the expansion of the definition of "local agency" and the addition of the Restriction Exemption.

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[11] *Id.*.
[12] Gov Code, § 54221(a)(1).
[13] Gov Code, § 37350.

In its bill analysis of AB 1486, the Senate Committee on Governance and Finance ("Committee") expressly stated that voter-approved measures are legal restrictions not imposed by a local agency. More specifically, the Committee explained that AB 1486 expanded the definition of "exempt surplus land" to include:

> "Surplus land that is subject to legal restrictions that would make housing prohibited or incompatible on the site due to state or federal statutes, **voter-approved measures**, or other legal restrictions that are not imposed by the local agency… ."[14]

The Committee's AB 1486 Bill Analysis makes it unequivocally clear that the Legislature intended the Restriction Exemption to apply in this case and all other cases where City-owned property is subject to a valid use restriction imposed by a voter-approved measure. A copy of the Committee's analysis is enclosed for your reference.

3. Practical Reasoning and Common Sense Require That a Voter-Approved Measure is a Valid Legal Restriction

Though there is no ambiguity in the plain meaning or legislative intent of the SLA, we consider the third step in statutory interpretation - applying practical reasoning and common sense to the statutory language, carefully considering the consequences that would flow from particular interpretations to resolve remaining uncertainties.

Here, interpreting Restriction Exemption to allow bond measure restrictions as a valid legal exemption reflects practical reasoning and common sense because it recognizes the legal reality that voter-approved funding creates binding obligations that local agencies cannot unilaterally escape.

As plainly stated in Elections Code Section 9217, an ordinance adopted by voter initiative cannot be repealed or amended except by a vote of the people, unless the original ordinance provides otherwise. Under Government Code Section 53410, any local bond measure that requires voter approval must include a clear statement outlining the specific purposes for which the bond funds will be used. The law also mandates that the proceeds be spent exclusively on those stated purposes.

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[14] Senate Committee on Governance and Finance: AB 1486 Bill Analysis, pg. 2-3 (available at: https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB1486#) (emphasis added).

Interpreting the alternative construction leads to two problematic outcomes – either local agencies are required to return to the voters for approval to lift the restriction or they ignore bond restrictions.

Requiring local agencies to return to voters to modify bond restrictions is both unreasonable and impracticable. The ballot process is extraordinarily time-consuming and expensive, often taking years to complete and costing thousands of dollars in election administration alone. Furthermore, voter approval is not a guaranteed outcome. Voters who approved specific-use bonds did so with the reasonable expectation that their funds would be permanently dedicated to those purposes.

If bond measure restrictions were ignored, local agencies could effectively nullify voter mandates by simply declaring surplus land subject to the SLA, thereby undermining democratic decision-making. This interpretation would also create legal chaos by forcing agencies to breach their fiduciary duties to bondholders and voters who specifically allocated funds for designated purposes.

B. Park is Subject to Voter-Imposed Restriction Limiting Use to Park Purposes Only

The second element of the Restriction Exemption requires a valid legal restriction to completely prohibit housing development.[15] Under the Restriction Exemption a restriction imposed by the source of funding that a local agency used to purchase a property is a valid legal exemption, provided the funding was limited to non-housing purposes and the proposed surplus land disposal is consistent with that purpose.[16]

Article XVI, Section 1 of the California Constitution mandates that works funded by a bond measure must be "distinctly specified" in the measure presented to voters, and any bonds issued under the measure "shall be applied only to the specific object therein stated." Similarly, Government Code Section 53410 requires that local bond measures subject to voter approval include accountability measures, such as a statement of specific purposes for the bond and a requirement that proceeds be applied only to those purposes.

[15] Gov Code, § 54221(f)(J)(ii).
[16] Gov Code, § 54221(f)(J)(ii)(IV).

To interpret a voter-approved enactment, the court may use interpretive aids to determine legislative intent including the ballot analysis, the official summary, and the arguments presented to the voters.[17]

Here, the source of funding used to purchase the Park was a voter-approved Bond Measure. The Bond Measure, through it's ballot language and related materials, clearly limited the use of funds to the acquisition of a park site from the City of San Diego and the construction of basic utility services for that Park, intending the site to be used for park uses if acquired. The ballot language and related materials did not provide permission or consideration of the Park for any other use.

Per Government Code section 38502, abandonment of the Park for another use for sale or conveyance for another use must be submitted to and approved by the voters. Since the Park was acquired using bond funds specifically approved for park use—and state law requires voter approval to abandon such use—its current non-housing designation cannot be changed without voter approval.

By introducing year-round indoor recreational and community programming, the proposed Project aligns with the legal and voter-imposed restrictions requiring the Park to be used for park purposes. This Project enhances and complements the Park's existing functions, thereby remaining consistent with its intended public use.

C. Park Restriction Cannot Be Avoided Without Voter Approval

The third element of the Restriction Exemption requires that the legal restriction cannot be feasibly mitigated or avoided.[18] Feasible mitigation methods for valid legal site restrictions cannot require the local agency to acquire third-party property rights or interests.[19]

The voter-imposed restriction requiring park use cannot be feasibly mitigated or avoided. Voter-approved bond limitations—whether contractual, relational, or implied

[17] *Professional Engineers in California Government v. Wilson* (1998) 61 Cal.App.4th 1013, as modified on denial of reh'g (Mar. 19, 1998).
[18] Gov Code, § 54221(f)(J)(ii).
[19] Gov Code, § 54221(f)(J)(iv).

by public approval—legally restrict a public agency's authority to spend bond proceeds and define the scope of the funded project.[20]

The Bond Measure presented to voters was specifically and narrowly limited to acquiring land for park purposes and constructing basic utility services for that park. This created a legally binding contract that Bond funds would be used solely for park purposes. As noted above, any abandonment or change of the Park's use must first be submitted to and approved by the voters.

As such, only the voters hold the exclusive right to modify the land use restriction on the Park. Requiring the City to seek voter approval is tantamount to requiring the City to acquire an interest it doesn't currently possess from a third party (the electorate), which is not required under the SLA.

III. Agency Use Exemption

The SLA requires local agencies to formally declare land as either "surplus land" or "exempt surplus land" before disposal if the land is not necessary for the agency's use.[21] The law defines "agency's use" broadly to include land currently used or planned for agency operations under an adopted written plan, specifically encompassing conservation purposes, utility sites, watershed property, and buffer zones around sensitive government facilities.[22] However, the statute excludes commercial or industrial activities from the "agency use" definition, particularly nongovernmental retail, entertainment, or office development, and property disposed solely for investment or revenue generation.[23]

The City's plan to lease the Park for the development and operation of an ice rink facility by a nonprofit qualifies as an exempt "agency use", and therefore is exempt under the SLA.

First, the City's plan converses the land's essential character as parkland by continuing its recreational use, maintaining public access, and enhancing the City's conservation mission for the Park through year-round recreational opportunities.

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[20] *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District*, 139 Cal.App.4th 1356, 1397 (2006).
[21] Gov. Code, § 54221(b)(1).
[22] Gov. Code, § 54221(c)(1).
[23] Gov. Code, § 54221(c)(1)(2)(A).

Therefore, this Project falls squarely within "land being used for conservation purposes" in accordance with the City's planned operations.[24]

Second, the land remains necessary for the agency's use, as demonstrated by the lease's reverter clause ensuring the property returns to the City after the lease term. The 50-year lease with automatic reversion shows the City's ongoing need for and control over the property and desire to operate the space as a park long-term. Further, the Project will facilitate additional recreation activities at the Park.

Third, the arrangement avoids the commercial exclusion in Subsection (c)(2)(A) because the lessee is a nonprofit operating for public benefit of the community. By definition, the nonprofit's operations are not commercial. The facility will serve public recreational needs with guaranteed public access, aligning with traditional park services. While private activities may occur, the primary purpose remains public benefit, similar to how other municipal recreational facilities operate with mixed public and private programming.

IV. Conclusion

In conclusion, the Project should be considered exempt surplus land as a valid legal exemption not imposed by the local agency and the Project should qualify as an agency use. Supporting documentation is enclosed for your reference.

Thank you for your attention to this matter and for considering the enclosed analysis. We are available to discuss further at your convenience.

Respectfully,

Taylor M Anderson

TMA:TMA

cc: Michael McGuinness, City Attorney of Escondido
Dare DeLano, Assistant City Attorney of Escondido

[24] Gov. Code, § 54221(c)(1).

SENATE COMMITTEE ON GOVERNANCE AB 1486 BILL ANALYSIS

See Highlighted Information on pages 2-3

SENATE COMMITTEE ON GOVERNANCE AND FINANCE
Senator Mike McGuire, Chair
2019 - 2020 Regular

Bill No:	AB 1486	**Hearing Date:**	6/26/19
Author:	Ting	**Tax Levy:**	No
Version:	5/16/19	**Fiscal:**	Yes
Consultant:	Favorini-Csorba		

SURPLUS LAND

Imposes additional requirements on the process that public agencies must use when disposing of surplus property.

Background

Public agencies are major landlords in some communities, owning significant pieces of real estate. When properties become surplus to their needs, public officials want to sell the land to recoup their investments. The Surplus Land Act spells out the steps public agencies must follow when they want to dispose of land they no longer need. It requires state departments and local governments to give a "first right of refusal" to other governments and some nonprofit groups. The statute's implicit public policy is that real property should remain in public ownership if it's still useful for certain favored purposes.

Before state and local officials can dispose of surplus land, they must send a written offer to sell or lease surplus land to various public agencies and nonprofit groups, referred to as "housing sponsors," if they want to sell or lease the property for:

- Low- and moderate-income housing.
- Park and recreation.
- School facilities or open space.
- Enterprise zones.
- Infill opportunity zones or transit village plans.

If another agency or housing sponsor wants to buy or lease the surplus land for one of these purposes, it must tell the disposing agency within 60 days. The two entities have an additional 90 days to negotiate a mutually satisfactory price in good faith. If they can't agree, the agency that owns the surplus land can sell the land on the private market. The Act says that nothing in its provisions prevent a local agency from disposing of the land at or below fair market value, where not in conflict with other law.

The Surplus Land Act's provisions don't apply to "exempt surplus land," which means either:

- Land that a county transfers at less than fair market value for affordable housing development; or
- Small parcels that are sold to contiguous property owners.

Counties have the option of developing a central inventory of all the surplus land in that county. Under a separate provision of law, local governments must annually make an inventory of all land that it holds to determine what land, including air rights, if any, is in excess of its foreseeable needs and describe the excess parcels. The local government must make this list available for free to entities that request it.

State agencies must make a similar list of excess land and send it to the Department of General Services (DGS). Land reported as excess must then be transferred to DGS, which requests authorization to sell the land from the Legislature if it isn't needed by other state agencies.

In 2014, the Legislature updated the Surplus Land Act to enhance the affordable housing requirements under the law (AB 2135, Ting). Specifically, if a local agency sells the land for housing, a few inclusionary requirements apply. First, if the land is to be used for low- or moderate-income housing, at least 25 percent of the units must be offered at an affordable housing cost or rent. If the local agency doesn't come to terms with a housing sponsor or other local agency, and a housing project with 10 or more units is subsequently built on the land, at least 15 percent of the units must be affordable.

The 2014 changes to the Act were intended to expand the supply of land available for affordable housing. Since then, reports of some local agencies attempting to avoid the requirements of the Surplus Land Act have emerged. In one high-profile case in 2015, the City of Oakland attempted to sell property to a market-rate developer despite interest from affordable housing developers. Affordable housing advocates want the Legislature to increase the requirements on local agencies that want to dispose of surplus property.

Proposed Law

Assembly Bill 1486 expands the requirements and application of the Surplus Land Act in numerous ways.

Local agency surplus land. AB 1486 expands the definition of "surplus land" to mean land owned by any local agency that is not necessary for the agency's governmental operations, which the bill defines to mean land that is being used for the express purpose of agency work or operations, including utility sites, watershed property, land being used for conservation purposes, and buffer sites near sensitive governmental uses, including, but not limited to, waste water treatment plants. Surplus land also includes land held in a Community Redevelopment Property Trust Fund and land that has been designated in a long-range property management plan either for sale or for retention for future development and that was not subject to an exclusive negotiating agreement or legally binding agreement to dispose of the land.

AB 1486 presumes land to be "surplus land" when a local agency initiates an action to dispose of it. However, AB 1486 also expands the definition of "exempt surplus land" to include:

- Surplus land held by the local agency for the express purpose of exchange for another property necessary for its governmental operations;
- Surplus land held by the local agency for the express purpose of transfer to another local agency for its governmental operations;
- Surplus land that is put out to open, competitive bid by a local agency for specified affordable housing developments.

- Surplus land that is subject to legal restrictions that would make housing prohibited or incompatible on the site due to state or federal statutes, voter-approved measures, or other legal restrictions that are not imposed by the local agency. AB 1486 provides that existing zoning alone is not a legal restriction that would make housing prohibited or incompatible.

When disposing of surplus land for the purpose of developing low- and moderate-income housing, AB 1486 requires a local agency to send a notice of availability of surplus land located in an urbanized area to housing sponsors that have notified the applicable regional council of governments (COG), or in the case of a local agency without a COG, the Department of Housing and Community Development (HCD), of their interest. This requirement replaces the requirement in current law to send a written offer to housing sponsors that request an offer. The notice of availability that AB 1486 requires must be sent by first class mail and, if possible, email. The bill also makes conforming changes to require notices of availability for land that a local agency disposes for other purposes.

AB 1486 specifies that negotiations between a disposing agency and an entity desiring to purchase or lease land must be limited to sales price and lease terms, including the amount and timing of any payments.

If a local agency receives notices of interest in the land from multiple entities that proposed the same number of housing units, first priority must be given to the entity that proposes the deepest average level of affordability for the affordable units. AB 1486 defines priority to mean that the local agency must negotiate exclusively with that entity. However, AB 1486 allows a local agency to negotiate concurrently with all entities that provide notice of interest to purchase or lease land for the purpose of developing affordable housing.

AB 1486 says that if a local agency fails to comply with provisions of the Surplus Land Act, the sale or transfer of the property is invalidated unless the local agency makes an alternative site available that can accommodate an equal or greater number of housing units as the original site.

AB 1486 also clarifies that the existing 15percent minimum affordability requirement applies whenever surplus land is used for housing; reiterates the types of agencies that must comply with the Surplus Land Act; and adds the Surplus Land Act to provisions that allow HCD to notify the city or county and notify the Office of the Attorney General that that city or county is in violation of state law.

Local reporting requirements. AB 1486 modifies the existing requirement for local agencies to make an inventory of excess lands to also include all lands not needed for its governmental operations, and requires this information to be reported to HCD no later than April 1 of each year, beginning in 2021. The bill also requires HCD to create and maintain a searchable and downloadable public inventory of all publicly owned or controlled lands and their present uses in the state on its internet website by September 30, 2021, which must be updated annually.

AB 1486 also requires a city or county, by April 1 of each year, in the Annual Progress Report submitted to HCD and the Governor's Office of Planning and Research, to additionally include a listing of sites owned or leased by the city or county that have been sold, leased or otherwise disposed of in the prior year, and a listing of sites with leases that expired in the prior year. The bill also specifies that the list must include the entity to whom each site was transferred and the intended use for the site.

AB 1486 requires, in a city or county's identification of sites required pursuant to Housing Element law, the description of nonvacant sites to also include whether the city or county plans to dispose of the property during the planning period, and how the agency will comply with the Surplus Land Act.

State surplus land. AB 1486 clarifies the existing requirement that each state agency must review the land it owns in excess its foreseeable needs "for governmental operations," and defines "governmental operations" consistent with the definition for local agencies. AB 1486 requires DGS, when authority is granted for the sale or other disposition of lands declared excess, and DGS has determined that the use of land is not needed by any other state agency, to sell the land or otherwise dispose of it. DGS must also dispose of 10 percent or more of the land designated as unneeded by other state agencies each year and try to conclude the pending disposition of surplus land within 24 months.

Zoning. AB 1486 provides that surplus land disposed of by DGS or a local agency shall be permitted for a residential use if the project is 100% affordable housing, exclusive of managers' units.

AB 1486 makes other technical and conforming changes and includes findings and declarations to support its purposes.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. According to the author, "California is facing a housing crisis and unused public land has the potential to promote affordable housing development throughout the state. AB 1486 clarifies and strengthens provisions in the Surplus Land Act that will promote the use of public land for affordable housing."

2. Robbing Peter to pay Paul. Local governments hold property for a variety of reasons, and they dispose of it for many reasons as well. Faced with tight budgets, state departments and local governments should be selling their surplus real estate for the highest possible prices, thereby recouping the public's investments. Recent legislation has eaten away at the ability of public agencies to maximize the value of their land: because any public land sold to a residential developer must include affordable housing, the value of that land is lower to a potential developer. AB 1486 goes a step further and imposes additional restrictions that will delay property sales, reduces the value that local governments can get for their land, and increases the red tape that the agencies and potential buyers must wade through before they can complete a transaction. By doing so, AB 1486 potentially undermines the services that local agencies provide to their constituents: if public agencies can't get the maximum sale price because of constraints on public land, they'll have less money to put towards other important programs. For example, water agencies that want to subsidize the water rates of low-income customers can't use ratepayer dollars to do so because of Constitutional limitations; instead, they rely on other types of revenues, including from property sales and leases. Similarly, AB 1486 restricts DGS's ability to appropriately time the disposal of state surplus land, potentially resulting in lower sales

prices that could have a General Fund impact. To provide some protection against potential revenue losses, the Committee may wish to consider amending AB 1486 to eliminate the restrictions on state agencies and specify that nothing in the bill requires a local agency to sell surplus land or receive less than fair market value for its property.

3. Who decides? Local officials are elected to best serve their constituents, and accordingly, current law provides local governments a lot of flexibility to dispose of land as they see fit. AB 1486 declares all land surplus that isn't being used for governmental operations, defined narrowly to mean only land that is currently being used for the express purpose of agency work or operations. But cities and counties have broad authority to look out for the welfare of their citizens and to take actions to ensure their wellbeing. Accordingly, some local agencies might consider selling land for economic development to be an important and valuable use of property, even though it might not be necessary for the agency's "operations." Furthermore, the bill's definition means that land reserved for future or planned uses would be designated as surplus. Finally, it is unclear who determines whether land is declared not necessary for government operations. The Committee may wish to consider amending AB 1486 to expand the uses of land that would not trigger a designation of surplus land and to specify that the local agency determines what land it needs, rather than leaving unspecified the entity that determines when land is no longer needed for an agency's use.

4. Give me some space. Local agencies impose restrictions on surplus lands for a variety of reasons. For example, some agencies reserve land to act as buffer sites between government activities (such as wastewater treatment) and other land uses that might affect, or be affected by, those activities. Local agencies therefore sometimes sell land with restrictions that may preclude incompatible uses on the site. However, AB 1486 prohibits local agencies from negotiating on terms other than price and timing of payments and automatically rezones surplus land sites to allow residential use if the project is 100% affordable. Accordingly, local governments may not be able to impose necessary restrictions on residential use that are protective of the agency and the public. This may result in housing being developed on surplus land in areas that may undermine the local agency operations or expose future residents to environmental harms. The Committee may wish to consider amending AB 1486 to delete the provisions that rezone surplus land as residential and to allow local agencies to make findings that restrictions on residential use are needed to protect the public or local agency operations.

5. Practical considerations. AB 1486 raises several operational concerns, outlined below:

- AB 1486 prohibits local agencies from participating in negotiations prior to sending a notice of availability to housing sponsors or other entities that get first crack at the land. However, the bill leaves "participating in negotiations" undefined. Some local agencies have raised concerns that it is unclear whether they could conduct informal surveys of land value to test the waters without running afoul of this provision.
- AB 1486 invalidates the sale of property if it is found that the local agency violated the Surplus Land Act, unless the local agency makes an alternative site available that can accommodate an equal or greater number of housing units as the original site. This provision is intended to give the Act some teeth, but it also potentially penalizes innocent parties that may have purchased the land not knowing that the local agency has violated the Act. Furthermore, if such violations are discovered at a later date, the purchaser may have invested significant capital in the property, only to find the transfer of ownership invalidated. To encourage compliance with the Act while avoiding the negative

consequences of this provision, the Committee may wish to consider amending AB 1486 to reinstate the provision of existing law that says that transfers cannot be invalidated and instead include an alternative penalty structure that also allows a local agency to cure an inadvertent error.

- AB 1486 requires local agencies to physically mail notices of availability to any housing sponsor that notifies the COG that they want to hear about surplus lands. But COGs can span broad areas, and some developers that sign up for notices may only be interested in land in one small part of the region. Accordingly, AB 1486 requires local governments to send out countless mailed notices that are likely to be ignored. This costs more money and is less convenient for agencies and developers alike than emailing the notices or posting them online in a readily searchable and accessible form. The Committee may wish to consider amending AB 1486 to instead designate HCD as the official keeper of the list of interested parties and to require electronic notification instead of mailing when a surplus parcel becomes available.

6. <u>The Ghost of Redevelopment</u>. State law regulates the use and disposition of properties owned by former Redevelopment Agencies (RDAs) and directs "successor agencies" to oversee the wind-down of RDA affairs and the payment of RDA obligations. Once a successor agency takes over for an RDA, it reviews the RDA's outstanding assets and obligations, and develops a plan to resolve those obligations and a Long-Range Property Management Plan (LRPMP) to address how successor agencies plan to use or dispose of former RDAs' real properties. Successor agencies can dispose of assets by selling them to other governments or interested parties, provided that they are disposed of expeditiously and in a manner that maximizes value to the local governments that receive money as a result of the dissolution of RDAs. The successor agency can also transfer ownership of assets that were constructed and used for a governmental purpose, such as police and fire stations, to the appropriate public jurisdiction. Revenue from properties sold goes towards repaying former RDA's obligations. AB 1486 explicitly designates former RDA-owned land as surplus. By doing so, it requires these lands to go through the Surplus Lands Act disposition process before they can be sold, which may slow down or impair the ability of successor agencies to dispose of former RDA properties and use the resulting revenue to pay off obligations. As a result, AB 1486 could lengthen the time that it takes to pay off RDA obligations. The Committee may wish to consider amending AB 1486 to exclude RDA properties from the Surplus Lands Act.

7. <u>Mandate</u>. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because AB 1486 imposes additional duties on local agencies, Legislative Counsel says that it imposes a new state mandate. AB 1486 says that if the Commission on State Mandates determines that it creates a state-mandated local program, the state must reimburse local agencies by following the existing statutory process for mandate claims.

8. <u>Related legislation</u>. AB 1255 (R. Rivas) requires cities and counties to include an inventory of surplus sites that are infill, "high-density" sites in the housing element and requires DGS to create a searchable database of surplus sites. AB 1255 is currently pending in the Senate Housing Committee. AB 2065 (Ting, 2018) would have amended the Surplus Lands Act expand the types of local agencies required to comply with the Act, require a "written notice of availability" of property to specified entities prior to disposal of property, require that notice to be sent to housing sponsors that have notified both HCD and the COG of their interest in surplus

land, placed parameters on the negotiations to dispose of the property, and would have provided that the existing 15 percent affordability requirements applies whenever surplus public land is used for housing. AB 2065 died in the Assembly Appropriations Committee. Most of the changes that were contained in AB 2065 are in also in AB 1486.

9. Triple Referral. The Senate Rules Committee has ordered a triple referral of AB 1486: first to the Senate Governance and Finance Committee to consider issues related to local agencies; second to the Senate Housing Committee to hear issues related to housing; and finally to the Senate Governmental Organization Committee, which has jurisdiction over state agencies.

Assembly Actions

Assembly Local Government Committee:	6-2
Assembly Housing and Community Development Committee:	5-1
Assembly Appropriations Committee:	12-4
Assembly Floor:	53-20

Support and Opposition (6/21/19)

Support: Bay Area Regional Health Inequities Initiative; Building Industry Association of the Bay Area; California Community Builders; Chan Zuckerberg Initiative; Enterprise Community Partners, Inc.; Habitat for Humanity California; Hamilton Families; Midpen Housing Corporation; North Bay Leadership Council; Related California; San Francisco Foundation; TMG Partners; Transform.

Opposition: Association Of California Healthcare Districts; Association Of California Water Agencies; California Association Of Sanitation Agencies; California Municipal Utilities Association; California Special Districts Association; California State Association Of Counties; Irvine Ranch Water District; Mesa Water District; Orange County Water District; Rural County Representatives Of California; Santa Margarita Water District; Urban Counties Of California; Vista Irrigation District

-- END --

RESOLUTION 3539
DECLARING RESULTS
OF
BOND MEASURE
FOR
PURCHASE OF KIT CARSON PARK

RESOLUTION NO. 3539

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, DECLARING THE RESULT OF THE CANVASS OF ELECTION RETURNS OF SPECIAL BOND ELECTION HELD IN SAID CITY ON NOVEMBER 8, 1966.

The City Council of the City of Escondido, California, DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

Section 1. That a special bond election was duly called and regularly held in said city on the 8th day of November, 1966, at which election there were submitted to the qualified voters of said city the following proposition, to wit:

> PROPOSITION - PARK BONDS: Shall the City of Escondido, California, incur a bonded indebtedness in the principal amount of $825,000 for the acquisition and construction by the said city, of a certain municipal improvement, to wit: acquisition of a park site from the City of San Diego, including the construction of basic utility services?

Section 2. A copy of the record as entered on the minutes of the Board of Supervisors of San Diego County showing the results of the canvass of the returns of said special bond election and the absentee votes cast thereat, has been duly received.

Section 3. That the votes cast in the precincts established for said election upon said proposition and for and against said proposition, the absentee votes, if any, cast upon said proposition and for an against said proposition, and the total votes cast at said election for and against said proposition and upon said proposition are as follows:

PRECINCT	YES	NO	TOTAL
ES 1	365	125	490
ES 2	207	110	317
ES 3	215	112	327
ES 4	279	126	405
ES 6	278	131	409
ES 7	222	95	317
ES 8	258	127	385
ES 9	283	166	449
ES 11	187	85	272
ES 13	110	56	166
ES 14	204	106	310
ES 15	221	113	334
ES 18	163	104	267
ES 20	178	98	276
ES 21	121	48	169
ES 22	242	125	367
ES 24	222	117	339
ES 25	260	122	382
ES 27	197	117	314
ES 28	198	108	306
ES 30	246	118	364
ES 32	268	120	388
ES 34	300	113	413
ES 36	191	68	259
ES 37	224	109	333
ES 39	93	53	146
ES 43	251	114	365
ES 44	194	59	253
ES 50	215	111	326
Totals in Precincts	6392	3056	9448
Absentee Votes	210	92	302
Total Votes including Absentee Votes	6602	3148	9750

Section 4. That the votes of more than two-thirds of all the voters voting at said election upon said bond proposition were cast in favor of the adoption of said bond proposition, and said bond proposition is hereby declared to be carried, and this City Council is authorized to issue bonds for the purpose stated therein as provided by law.

Section 5. That the City Clerk of this City is hereby directed to enter this resolution in full in the minutes of this City Council, which entry shall constitute the City Clerk's statement of the result of the election.

ADOPTED, SIGNED AND APPROVED this 14th day of December, 19 66.

Kenneth M Robert

Mayor of the City of Escondido,
California.

ATTEST:

Lina M. Hill

City Clerk of the City of
Escondido, California.

(SEAL)

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF ESCONDIDO)

I, LINA M. HILL, City Clerk of the City of Escondido, California, DO HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the 14th day of December, 1966, and that it was so adopted as follows:

AYES: Councilmen Crow, Harding, Linthicum, Roberts, Tustin

NOES: Councilmen None

ABSENT: Councilmen None

Lina M. Hill
City Clerk of the City of Escondido, California

(SEAL)

ARGUMENT IN FAVOR
OF
BOND MEASURE
FOR
PURCHASE OF KIT CARSON PARK

ARGUMENT IN FAVOR OF PARK BOND PROPOSITION.

Green and shaded open spaces, which are so characteristic of our city are rapidly giving way to new homes, businesses and industry. Our population has increased by 68.4% since 1960, a greater increase than any other community in the county. The city has managed to keep pace with this growth by expanding its sewer, water, street and storm drainage facilities. Our parks and recreational needs are no less important.

Today the citizens of Escondido have an opportunity to secure for themselves and for generations to follow a spacious community park. The park site is being offered to us by the City of San Diego at a fair price - slightly more than $3,000 per acre. The proposed park would join an existing 30 acres of park land which will give the city an area of 234 acres for recreational development. A park of this size can offer many varied recreational activities for all age groups. It will also preserve a large open space at the southern gateway of our city, as an attraction to visitors and as a landmark of our city. The proposition we urge you to approve will enable the city to purchase the park site and to serve it with water and sewer facilities. Once acquired the city can plan for its orderly development with deliberation.

While this park is only part of the total recreational plans of the city it is a major addition, and one which will make Escondido a better place to live.

Vote "YES" on Proposition P - for Progress and Pleasure.

William S. Crow
William S. Crow

Robert F. Harding
Robert F. Harding

George M. Linthicum
George M. Linthicum

Kenneth M. Roberts
Kenneth M. Roberts

Lewis P. Tustin
Lewis P. Tustin

CITY OF ESCONDIDO
RECEIVED
SEP 14 1966
CITY CLERK

BOND CONSULTANT REPORT
PURCHASE OF KIT CARSON PARK

THE PROJECTS

As briefly explained under "Authorization" and "Purpose of Issue," foregoing, the proceeds of this bond offering will be applied to three general purposes: acquisition and some improvement of a new City park site, installation of storm drain facilities, and improvement of fire protection facilities. The projects are briefly described following, in order of their magnitude.

THE PARK PROJECT

The park bonds are offered pursuant to authorization by Electors of the City of Escondido to incur debt ". . . for the acquisition and construction by the said city, of a certain municipal improvement, to wit: acquisition of a park site from the City of San Diego, including the construction of basic utility services."

The chosen site, now owned by the City of San Diego, consists of 234 acres of eminently well-suited land recently annexed to the City of Escondido southeast of the City (see accompanying map) and bounded on the west by U. S. Highway 395. Following exhaustive negotiation, the City of San Diego has agreed to sell the site to the City of Escondido, for the proposed purpose only, for $615,000 (or equivalent value in City of Escondido participation in a joint utilities installation on adjoining lands of the City of San Diego), a price believed to be most reasonable in terms of open market values.

Approximately $191,300 of the bond proceeds will be applied by the City to the installation of sewer and water facilities in and to the park, and in the surrounding area whose commercial and residential development both cities intend to encourage. It is expected that establishment of the park will stimulate high-grade residential and commercial development in its vicinity.

The remaining $18,700 of bond proceeds authorized for the Park project will be available for peripheral costs, including legal and other professional services.

THE STORM DRAIN PROJECT

The $500,000 in bonds attributable to the storm drain project are a part of $2,000,000 authorized by electors ". . . for the acquisition and construction of storm drainage and flood control systems with appurtenances and appurtenant work including the acquisition of all real property, easements, and other property necessary, therefor and also including the city's participation in such projects involving the Federal government," (see "Authorization").

The work to be financed is a part of a long-term continuing project by which the City installs storm drain and flood control facilities as necessary to keep approximately abreast of the rate of growth and development, and to take advantage of the major Escondido Creek and Reidy Creek State and Federally financed Flood Control Projects currently under way.

Although the City has a generally dry climate, its topography and a tendency to concentrated winter rainfall create a definite and sometimes severe flood hazard. Prior to 1959 most run-off was carried by open ditches into two natural creek-beds. Never entirely satisfactory, this system had proven highly inadequate by the 1950's as municipal growth and development continued. In 1959 electors authorized a $1,550.000 general obligation bond issue for the first substantial storm drainage project. During ensuing years the proceeds of this issue have been applied to facilities for City areas whose need was most acute — generally the lowland areas of most concentrated development. Since then City development has become denser in both central and outlying neighborhoods. This has created a need for additional drainage works.

In 1966 construction began on the $11,000,000 State and Federally financed Escondido Flood Control project. This consists essentially of widening, deepening, and concrete lining Reidy and Escondido Creeks, the main natural runoff channels through the City, plus construction of highway and railroad bridges. The only costs to the City to date in connection with this major project are for optional extra widths of bridges, which are financed from gasoline tax revenues, and some fencing. The Jack Creek Dam, to be included in a future, final phase of the project, will create a reservoir, whose cost will be shared by the City to the extent of an estimated $1,500,000. This will probably be financed from the sale of water revenue bonds.

The present $2,000,000 bond authorization will finance various local drainage projects to convey surface water into the improved creek-beds as needed during perhaps the next two years. The City has applied for a Federal grant toward its own over-all project, but must proceed with certain construction items before action on the application is likely to be taken. If granted, Federal assistance will permit the inclusion of desirable works which would be beyond the capacity of the $2,000,000 bond authorization. However, the effectiveness of the $2,000,000 project will in no way depend upon availability of additional Federal monies. Whether or not a grant is forthcoming, or in whatever amounts, the project will be complete and functional within its geographic limits, although the larger project would serve a greater area.

Proceeds of the initial $500,000 Storm Drainage bonds will be applied approximately as shown:

New Drainage Projects	
Grape Day Park (completed, cost subject to reimbursement)	$ 25,000
Ash Street (under contract)	70,000
Rose Street- Grand-Escondido Creek (Engineer's estimate)	200,000
Midway-Grand-Escondido Creek (Engineer's estimate)	125,000
Fencing (various projects)	30,000
Engineering, design on future work, miscellaneous, contingencies	50,000
Total	$500,000

Locations of the projects named foregoing are shown in the accompanying drawing. Exact locations and specifications of future projects will depend to some extent upon development trends during the next year or so, and upon design work currently in progress. However, both design and construction will be generally geared to progress on the $11,000,000 State and Federally financed Escondido Flood Control project now under construction.

The system heretofore has been complete and self-contained in all respects, including catch basins, manholes, cleanouts, inlets, and all other appurtenances. Wherever possible, structures have conformed to established street grades. Design criteria have presupposed ultimate develop-