

City of Piedmont  
CITY COUNCIL AGENDA REPORT

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DATE: November 17, 2025

TO: City Council

FROM: Rosanna Bayon Moore, City Administrator

SUBJECT: Study Session Regarding the California Surplus Land Act (SLA) and a Possible Exemption Related to the Moraga Canyon Specific Plan

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RECOMMENDATION

Receive a presentation from staff and the City’s consultant team containing information on the California Surplus Land Act (SLA) and criteria for an exemption from the SLA in relation to a solicitation for proposals from housing developers for the Moraga Canyon Specific Plan (MCSP). Provide staff direction to either:

- A. Prepare a Notice of Availability in conformance with the SLA; or
- B. Prepare a declaration of exemption from the SLA, with further direction on the level of affordable units.

EXECUTIVE SUMMARY

The MCSP indicates approximately 4.7 acres out of a total of 22.78 acres of City-owned land in the study area to be available for the development of housing. To make that land available to developers, the City must first declare it “surplus land” pursuant to the California Surplus Land Act (SLA). The City Council may also establish parameters around the future development of this land that makes it eligible for “exempt” status under the SLA pursuant to Government Code Section 37364. This staff report and the accompanying presentation provide information about the SLA and the criteria for exemption.

There are pros and cons to declaring the project exempt from the SLA. An exemption provides benefits to the City in the form of greater local control over the developer proposal solicitation process, the selection of a developer and the negotiations with the selected developer. However, to qualify for an exemption, the City must seek housing development at levels deeper than required by Housing Element Program 1.L. And if the City seeks to make the \$2.1m of Alameda County Measure A-1 Bond funds available to the affordable housing developer the number of extremely low housing units would need to be increased.

The result of the deeper affordability requirements (in unit numbers and income levels) for the housing development is that it may make the project less fiscally feasible, but it could also help the affordable housing developer qualify for more grants and tax credits. A benefit of deeper affordability is that it would help the City better achieve its Regional Housing Needs Allocation for affordable housing as outlined in the Housing Element.

This report and the accompanying slideshow presentation provide information to assist the City Council in understanding the benefits and disadvantages of an SLA exemption.

## BACKGROUND

Piedmont's 6<sup>th</sup> Cycle Housing Element includes Program 1.L, which requires the preparation of a specific plan for City-owned parcels and roadway in the Moraga Canyon area. On October 6, 2025, the City Council held a public hearing, received public testimony and a staff presentation, and approved the Moraga Canyon Specific Plan with a series of revisions. In a specific plan, the City is not committing to approving any specific project or to dedicating financial resources beyond the cost of MCSP preparation. Rather, the MCSP sets the framework (i.e., land use policies, development standards, processes) by which improvements to public facilities and development of housing would occur within the context of adjacent uses, the surrounding community, and Piedmont as a whole.

Pursuant to SLA Guidelines section 103(c)(1), exemptions from many SLA requirements include the types of land and uses identified in the following Government Code sections:

- 54221(f)(1)(A) land transferred pursuant to Section 25539.4 real property owned by counties used for affordable housing or 37364 real property owned by cities and used for affordable housing meeting certain requirements set by State law (see below),
- 54221(f)(1)(B) contiguous parcels sold simultaneously to the same receiving entity, 54221(f)(1)(E) former street, r-o-w, or easement conveyed to an owner of adjacent property, 54221(f)(1)(K) land that was granted by the state in trust to a local agency or that was acquired by the local agency for trust purposes by purchase or exchange, and for which disposal of the land is authorized or required subject to conditions established by statute,
- 54221(f)(1)(L) school property and teacher housing, or
- 54221(f)(1)(Q) airports

As outlined in the Discussion section below, with some adjustments to the affordability levels and total number of housing units outlined in Housing Element Implementation Program 1.L the City-owned parcels in the MCSP area could be determined to be exempt from certain SLA requirements pursuant to the first exemption category listed above, Government Code Section 37364. The discussion below also describes the advantages of an exemption from the SLA.

## DISCUSSION

### **What is the California Surplus Land Act?**

Originally enacted in 1968, the SLA requires local agencies to prioritize affordable housing, as well as parks and open space, when disposing of surplus land, which is defined as “land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency’s use” (Gov. Code § 54221(b)(1)). On August 1, 2024, the California Department of Housing and Community Development published the [Updated Surplus Land Act Guidelines](#) (“SLA Guidelines”). Section 103 of the SLA Guidelines includes categories of exemptions permitted under State law.

Recently, Assembly Bill (AB) 1486 (Statutes of 2019, Chapter 664) and AB 1255 (Statutes of 2019, Chapter 661) made changes to the SLA found in Government Code, Title 5, Division 2, Part 1, Chapter 5, Article 8. Surplus Land. In general, the purpose of the 2019 amendments is to promote affordable housing development on surplus land throughout the state to respond to the affordable housing crisis. The amendments to the SLA adopted with AB 1486 and AB 1255 clarify and strengthen reporting and enforcement provisions of the SLA to promote increased compliance with the SLA.

AB 1486 took effect on January 1, 2020. As of that date, HCD began reviewing notices that local agencies are required to send by email or certified mail pursuant to Government Code section 54222(a)(1) and examining complaints and other information received or requested to confirm compliance with the SLA pursuant to Government Code section 65585.1. As of that date, HCD also began collecting (in Table G of the Housing Element Annual Progress Report) information on jurisdiction-owned sites identified in the Housing Element sites inventory, and subsequently disposed of by the jurisdiction.

As of January 1, 2021, HCD was required to begin implementing Government Code section 54230.5, including, but not limited to: adopting the SLA Guidelines; reviewing each local agency's description of the notices of availability sent, description of negotiations conducted with any responding entities, and copies of any restrictions to be recorded against the property pursuant to Government Code sections 54233 or 54233.5; submitting written findings to local agencies; and, if necessary, assessing penalties, in conjunction with the Attorney General, to local agencies that dispose of surplus property in violation of the SLA. City-owned land used under the terms of Government Code Section 37364 is exempt from many of the provisions of the SLA.

### **Exempt Surplus Determinations Under Government Code Section 37364**

Pursuant to Government Code Section 37364, the following intended land use can make land "exempt surplus" under the SLA. Section 37364 states that whenever the legislative body of a city determines that any real property or interest therein owned or to be purchased by the city can be used to provide housing affordable to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code or as defined by the United States Department of Housing and Urban Development, and that this use is in the city's best interests, the city may sell, lease, exchange, quitclaim, convey, or otherwise dispose of the real property or interest therein at less than fair market value, or purchase an interest in the real property, to provide that affordable housing under whatever terms and conditions the city deems best suited to the provision of such housing. Government Code Section 37364 sets the following parameters:

- Not less than 80 percent of the area of any parcel of property disposed of pursuant to this section shall be used for development of housing.
- Not less than 40 percent of the total number of those housing units developed on any parcel pursuant to this section shall be affordable to households whose incomes are equal to, or less than, 75 percent of the maximum income of lower income households (i.e. 60 percent of the area median income or AMI), and at least half of which shall be affordable to very low income households.
- Affordability is guaranteed for a period of time 30 years or longer.

According to HCD, “lower income” means both “50 percent to 80 percent of AMI” and “0 percent to 80 percent of AMI.” In both cases, the maximum income is 80 percent AMI. Therefore, “75 percent of the maximum income of lower income households” means 60 percent AMI. To meet the Section 37364 exemption, the MCSP must provide 54 units consisting of 27 units affordable to households earning 60 percent AMI and 27 units affordable to households earning very-low incomes (50 percent AMI or less).

In addition to the exemption eligibility criteria for Section 37364, the City of Piedmont’s goals for the City-owned property in the MCSP Area include (1) a minimum of 60 below market-rate housing units (BMRs) affordable to lower incomes and 10 percent of other units affordable to households earning moderate incomes; (2) 20 units of housing in the categories of low, very low and extremely low incomes, each; and (3) Measure A-1 (2016) funding eligibility. The following table describes the affordability mix of each of the goals and programs.

**Table Comparing MCSP to SLA Exemption 37364 and Measure A-1 Requirements**

Housing Element Program I.L / MCSP	Surplus Lands Act Exemption	Program I.L, SLA Exempt, and Measure A-1	Program I.L, SLA Exempt, Measure A-1, and Table IV-1 Reduction in ELI Units
132 units total	132 units total	132 units total	132 units total
20 low (80 % AMI)	27 units low (60 % AMI)	27 units low (60 % AMI)	20 units low (60% AMI)
20 very low	27 units very low	27 units very low	26 units very low
20 extremely low	---	20 units extremely low (minimum of 12 required for Measure A-1)	20 units extremely low required for Measure A-1 eligibility
7 moderate (10% voluntary) = 60 affordable BMR units (= 67 affordable BMR units with voluntary 10% moderate)	7 moderate (10% voluntary) = 54 affordable BMR units (= 61 affordable BMR units with voluntary 10% moderate)	7 moderate (10% voluntary) = 74 affordable BMR units (= 81 affordable BMR units with voluntary 10% moderate)	= 66 affordable BMR units

In summary, if the City intends for the development of housing in the MCSP area to meet the requirements for exempt surplus land (Section 37364), the MCSP development regulations, and Measure A-1, the total number of BMR units must increase from a minimum of 60 housing units to 74 housing units with deeper affordability (minimum of 27 units at 60 percent AMI instead of a minimum of 20 units at 80 percent AMI). To achieve this increase, the City may be required to allocate a larger share of the land in the MCSP area to the BMR development and less land to the market-rate development.

**Exempt Surplus: Length of Affordability Required**

Pursuant to Gov. Code Section 37364(d), dwelling units produced for persons and families of low or moderate income under this section shall be restricted by regulatory agreement to remain continually affordable to those persons and families for the longest feasible time, but not less than 30 years, pursuant to a method prescribed by the city. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the housing development is located. The regulatory agreement shall be recorded in the grantor-grantee index to the name of the property owner as grantor and to the name of the city as grantee.

## Findings for Exempt Surplus Land

In order to transfer property within the MCSP area, the City will need to comply with the California Surplus Land Act (Government Code section 54220, et seq.) (“SLA” or “Act”).<sup>1</sup> The following sections outline the steps the City is required to take to comply with the SLA when transferring parcels within the MCSP area. Ultimately, the disposition process will result in negotiations with potential developers that could be quite lengthy.

## Declaration of Surplus Property

The first step in compliance with the SLA is to declare the property non-exempt “surplus land” or “exempt surplus land.” (See Gov. Code section 54221(b).) For disposition of the MCSP property, the City can either declare the property “surplus” and follow the standard process under the SLA, or the City could require deeper affordability than currently envisioned in the MCSP and declare the property “exempt surplus”. Use of this SLA exemption would require the following: (a) at least 80 percent of the property transferred must be used for the development of housing; (b) at least 40 percent of the total number of housing units developed must be affordable to households whose incomes are equal to, or less than, 75 percent of the maximum income of lower income households (60 percent AMI), and at least half of which must be affordable to very low-income households; and (c) the restrictions must be in place for 30 years. (Gov. Code Section 54221(f)(1)(A) and Section 37364; Guidelines, Section 103(c).) As the MCSP envisions 60 affordable low-income units, out of a total of 132 units with no requirement for very-low income units, the City would need to require deeper levels of affordability for this exemption to apply. Further, the MCSP currently envisions low-income units at 80 percent of area median income, and would need to decrease the affordability to 60 percent of area median income (AMI) to meet the exemption requirements. It should be noted that the MCSP would not need to be amended to use this exemption.

Whether the City proceeds with a “surplus” property or “exempt surplus” property declaration, the City Council would be required to adopt a resolution making such declaration with findings to support the action. The resolution would need to specify that the City has two potential options for development of the MCSP, and that sale or lease of the property must proceed in accordance with one of the options.

## Process if Land is Declared Exempt Surplus

If the land dedicated to housing in the MCSP is declared exempt surplus, the SLA process largely ends with the adoption of the resolution finding that the property is exempt. However, the City must notify HCD at least 30 days prior to agreeing to terms for the disposition of the property, and provide HCD with a copy of the City’s resolution declaring the property “exempt surplus.” (Gov. Code Section 54221(iv); SLA Guidelines, Section 400(e).)

If the City follows this process, the City would be free to dispose of the property (sale or lease

<sup>1</sup> California Housing and Community Development (“HCD”) has also promulgated detailed guidelines for local agencies to follow to comply with the SLA. (See Updated Surplus Land Act Guidelines, California Housing and Community Development, August 1, 2024 (“SLA Guidelines”).)

longer than 15 years) in accordance with its own local procedures. For example, the City could issue a Request of Proposals to potential developers and would have the ability to negotiate with a developer without the constraints of the SLA.

Should the City Council choose to deepen the affordability of the housing units and declare the project exempt from the SLA, the steps in the ensuing process include:

1. Draft a Request for Proposals/Qualifications (RFP/RFQ) for City Council review and approval (30 days);
2. Issue the RFP/RFQ to housing developers (allow developers 60 days to prepare and submit proposals);
3. A review committee consisting of staff and community members reviews proposals, interviews select developers, and makes a recommendation to the City Council (30-45 days);
4. City Council considers the review committee's recommendation and directs staff to enter into an Exclusive Negotiating Agreement (ENA) with the selected developer with the intent of executing a Development Agreement (DA);
5. Staff negotiates a development agreement with the selected developer (up to 6 months). During the negotiation the developer prepares plans and applies for entitlement permits and any amendments to the MCSP as outlined in the Moraga Canyon Specific Plan;
6. The Planning Commission reviews and makes recommendations on any permit applications subject to its authority;
7. The City Council considers for approval the entitlement permits, any amendments to the MCSP and the development agreement;
8. Upon approval by the City Council, the developer prepares and submits grading and building permits as outlined in the MCSP.

### **Process if Land is Declared Non-exempt Surplus**

If the City does not pursue an exemption and declares the property to be “non-exempt surplus” property, the process would be as follows:

#### **(a) Prepare and Issue a Notice of Availability**

After the property is declared surplus, City staff would prepare a Notice of Availability (NOA) to notify potential purchasers or lessees that portions of the MCSP area are available for development of housing. (See SLA Guidelines Section 201.) The NOA would indicate whether the City intends to sell the parcel or enter into a long-term lease, and would include reasonable conditions and restrictions on the transfer.<sup>2</sup> As examples of conditions, the NOA could require a specified number of market-rate and affordable units (as outlined in the MCSP); set forth conditions for the phasing of the development of market-rate versus affordable units; ensure construction of roadway and other infrastructure improvements to address potential impacts; and require coordination with the City's recreational and Public Works facilities.

A final, approved NOA would then be sent to local public entities authorized to engage in or assist in the development or operation of affordable housing, and housing sponsors qualified to own,

<sup>2</sup> Leases of 15 years or less are not covered by the SLA pursuant to SLA Guidelines, Section 101(i)(2)(A). Any development of the MCSP area would require a lease of more than 15 years, so this exception would not be applicable.

construct, acquire, or rehabilitate affordable housing that are on an interest list maintained by HCD (see Gov. Code Section 54222). A potential purchaser desiring to purchase or lease the surplus land for housing must notify the City in writing of its interest within 60 days after the City's NOA is sent via certified mail or provided via electronic mail. (Gov. Code Section 54222(e).)

**(b) If the City Receives Responses to NOA: Negotiate with Potential Purchasers/Lessees**

If the City receives a notice of interest from one or more potential purchasers in response to its NOA, the City must enter into good faith negotiations with that entity or entities to determine whether a mutually satisfactory sales price and terms can be reached (see SLA Guidelines Section 202). If the City receives multiple offers, the City would be required to give first priority to entities that propose a greater number of affordable units or deeper affordability. (See Gov. Code Section 54227.)

The SLA sets forth certain grounds for which the City can reject an offer. These grounds include the following: (a) the parties cannot agree on the sale price and terms or lease terms; (b) priority is given to a competing offer with a greater number of affordable units, or in the event of a tie in the number of units, the lowest average level of affordability; and (c) the proposed transferee is not responsive to the City's reasonable conditions or restrictions (see SLA Guidelines, Section 202(a)(4)).

If no agreement with a prospective purchaser is reached after a good faith negotiation period of not less than 90 days, the City would notify HCD and is required to record a covenant against the property requiring, among other things, that any housing developed thereon include at least 15 percent lower income housing (see Guidelines, Section 202(b)(1)). Thereafter, the City would be able to transfer the surplus parcel to an entity of its choosing outside of the SLA procedures.

If negotiations with a potential developer are successfully concluded, the City would need to notify HCD before final approval or execution of an agreement. The City must provide HCD a description of the NOA sent, a description of negotiations conducted with any responding entities, and proposed terms of sale. After final approval of disposition and developments, the City and developer would be able to move forward with development. Housing Element Program 1L envisions issuance of building permits by the end of 2027.

**(c) If There are No Responses to NOA, Consider Next Steps, Including Issuance of a Request for Proposals**

If no expressions of interest are received by expiration of the 60-day NOA period, the SLA process ends and the City may immediately notify HCD of the conclusion of the City's process and thereafter proceed to pursue transfer through other methods. The City will, however, be required to record a covenant against the property providing that any housing developed thereon include at least 15 percent lower income housing.

In terms of pursuing disposition outside the SLA process, the City would want to consider whether there are other developers that would be interested in development or whether certain conditions of disposal should be modified. The City could consider issuance of a Request for Proposal to a broader range of developers to obtain viable proposals. If the City did not pursue alternative methods of disposition or does not enter into an agreement with a developer for development of

the MCSP by the end of 2026, the City would need to identify alternative sites as discussed below.

**Next Steps If No Disposition Agreement is Finalized**

If no disposition is finalized, either due to lack of response from developers to either an NOA or RFP, as applicable, or an inability to complete disposition and development negotiations, the City would have to pursue alternative options. Specifically, Housing Element Program 1L provides that the City must “[i]dentify alternative site(s) by June 2027 (if no agreement is finalized by the end of 2026).” Therefore, if no disposition agreement is reached by the end of 2026, the City would be required to start reviewing alternative sites in the City for the minimum 132 units envisioned by the MCSP.

**How does the Surplus Land Act Interact with Housing Goals in the MCSP?**

On October 6, 2025, the City Council approved the MCSP with the following provisions (bold and underline for the purpose of this report) that could help qualify for an exemption under the California Surplus Lands Act.

	MCSP Section	Adopted Provisions
1.	3.11	The Multifamily Residential development shall provide <b><u>at least 130</u></b> market rate and affordable units. <b><u>There shall be a minimum of 60 affordable units or 40 percent, whichever is greater,</u></b> provided within the Specific Plan area. These units shall be affordable to Lower Income earners (80 percent of the Area Median Income or lower), including households with extremely low incomes, and are envisioned as a separate building from the market rate residential units with an integrated design or may be provided within the market-rate building(s).”
2.	3.12.2(A)	Uses within the Multifamily Residential Specific Plan Designation shall consist of the following: a. <b><u>At least 130 total dwelling units, not to exceed 60 DU/AC in the defined land use area, with a minimum of 60 units identified as affordable units.</u></b>
3.	10.3(4)	The following is a list of development items/goals applicable to either design option within the MCSP area: 4. <b><u>Development of at least 130 multifamily residential units, a minimum 60 of which are to be affordable.</u></b>
5.	10.5.6.2(B)(3)	The Development Agreement shall include the following terms and conditions, unless waived by the City Council:… <b><u>1.The provision of affordable housing, with a minimum of 60 units affordable to households earning low and very low incomes, including a minimum of 40 units affordable to those with very low and extremely low incomes. In addition, the provision of housing units affordable to households earning moderate incomes, or less, as a minimum of 10% of other housing units in the development, and the provision of a minimum of 50% of units with two bedrooms or more to serve families.</u></b>

## FISCAL IMPACT

The MCSP is a policy document in support of the City's General Plan. Adoption of the MCSP does not obligate the City to approve any specific project or to allocate funding beyond the costs incurred for preparation of the plan. Future public facility improvements or private development within the plan area will be subject to separate project-level review and approval, including analysis of fiscal impacts and funding sources at that time.

## CONCLUSION

There are advantages and disadvantages for the City to determine that the disposition of land in the Moraga Canyon Specific Plan study area is exempt from the Surplus Lands Act. The primary benefit is the flexibility in soliciting proposals from housing developers and in negotiating and selecting a developer. However, deeper housing affordability is required for the exemption. The deeper affordability would help the City meet its Regional Housing Needs Allocation of affordable housing, which it otherwise struggles to obtain, but could also make the development of housing fiscally infeasible.

Report prepared by: Kevin Jackson, Director of Planning & Building  
Pierce Macdonald, Senior Planner

## ATTACHMENTS

### Pages

- A 11-26 Slideshow Presentation on the California Surplus Lands Act and Housing Affordability
- B 27-28 Housing Element Program 1.L
- C 29-30 Process flow diagram for Surplus Land Act

## **Related Documents**

[\*Moraga Canyon Specific Plan\*](#)

[\*City of Piedmont 6<sup>th</sup> Cycle Housing Element, Adopted March 2023, Revised August 2023\*](#)

































# 4. STACKED FLATS + MULTI-FAMILY (150 UNITS)

## Findings

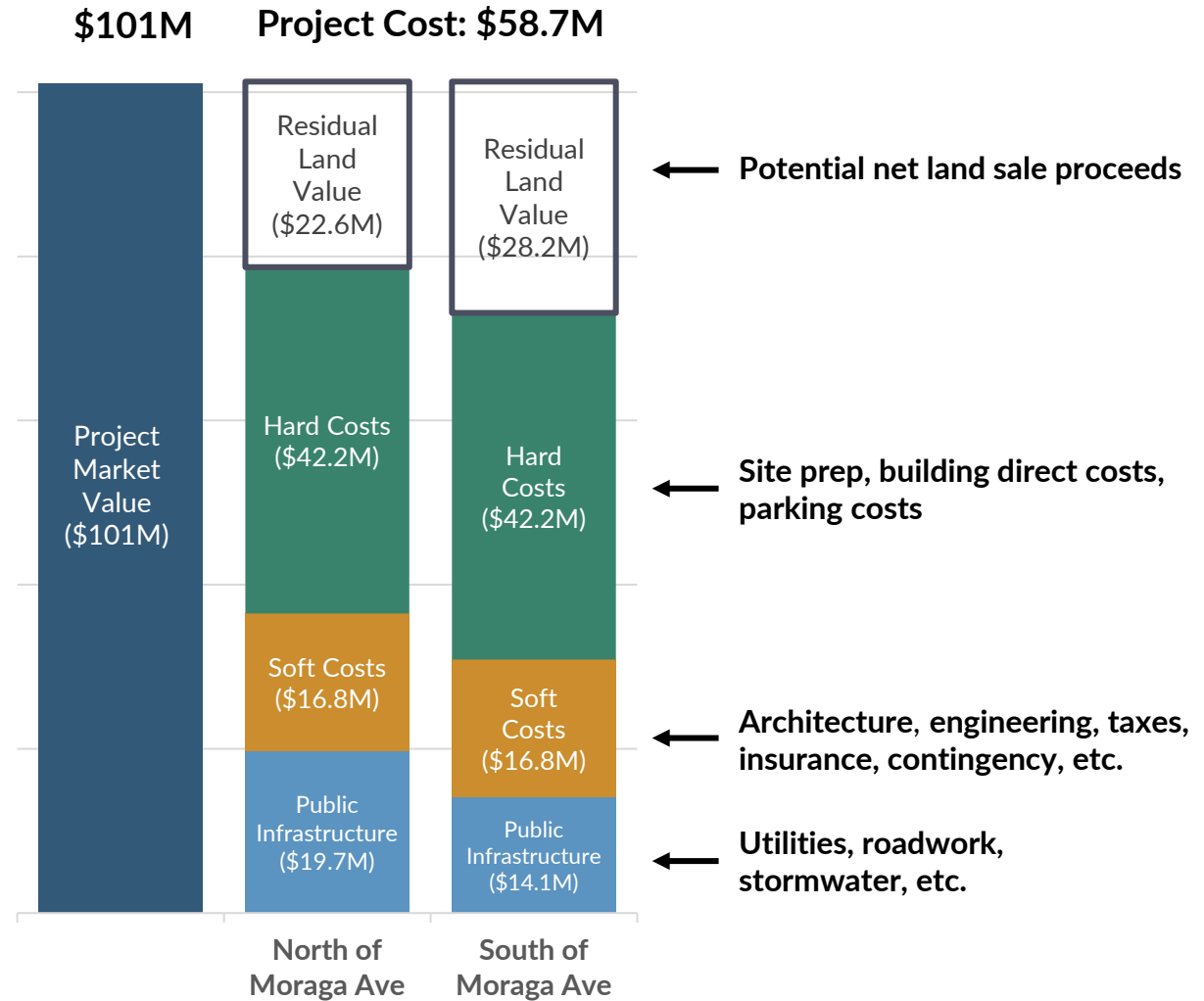
- Generates highest RLV of among tested scenarios
- Improved performance due to both higher density and lower cost / sq. ft.

## Assumptions

Avg. sale price / unit:

- \$1.5M market rate
- \$617,000 inclusionary

Building hard costs ~ \$240 / per sq. ft.





housing funding sources.

The City issued a request for proposals (RFP) seeing professional services for the preparation of a Moraga Canyon Specific Plan on January 23, 2023. Proposals were received on March 13, 2023 and contract execution and project kick-off are expected to occur by the end of July 2023. There are no known impediments to the development of housing within the study area. The scope of services detailed in the RFP include but are not limited to the following:

- Detailed guidance on phasing and subdivision that accommodates the 60 units of lower-income housing and 72 units of above moderate-income housing identified for the study area in Housing Element program 1.L and the Sites Inventory (Housing Element Appendix B), and that prioritizes and expedites the identification of a site for the development of affordable housing that meets the criteria and timelines to secure Alameda County Measure A-1 funding. (The due date for the City to gain County approval of a project using Measure A-1 funding is December 31, 2024.);
- The preparation of a surplus land declaration;
- A program of implementation measures including regulations, programs, infrastructure projects, and financing measures necessary to implement the Specific Plan; and
- An evaluation of the economic feasibility of the Specific Plan.

Necessary entitlements and the issuance of building permits will occur during the planning period and will be specified through the Specific Plan process. As noted in Appendix F, any new housing in Piedmont represents increased access to opportunity and housing mobility, as the City is considered to be “highest resource” throughout. The Specific Plan will promote housing choice and affordability, given that it includes measures to provide housing for below-market rate households, which will help overcome existing patterns of income segregation within the Bay Area and East Bay region.

The City will also determine appropriate partnership opportunities in order to ensure successful implementation of this program and adequate funding for the development of affordable housing. Proposals would be reviewed and approved by the City Council.

- Objective: Develop a specific plan to accommodate at least 132 dwelling units at a density of 40 to 60 dwelling units per acre affordable to a variety of households, including seniors, disabled persons, single-parents, low-income families, and people requiring supportive services.
- Timeframe:
  - Award contract for professional services for the preparation of the specific plan and kick off project by July 2023.
  - Apply for available grant funding by December 2024.
  - Begin subdivision of site and Surplus Land declaration timed to be completed concurrent with Specific Plan adoption.
  - Prepare specific plan with the goal of completion by the end of 2025.
  - Adopt specific plan, General Plan amendments (See Program 1.P), and associated development standards by 2025.
  - Pursue goal of entering into exclusive negotiating agreement with development partners by the end of 2026.
  - Issue building permits by the end of 2027 (if an agreement is finalized with developers by 2026).
  - Identify alternative site(s) by June 2027 (if no agreement is finalized by the end of 2026).
- Responsible Agency: Planning & Building Department, with direction of City Council and Planning Commission.”

# Public Land for the Public Good:

## How to Build Affordable Housing Through the Surplus Land Act (CA)

### The Surplus Land Act (SLA) Process:

The SLA process begins when a local public agency in California decides to sell or to lease land that is no longer needed for the agency's own operations. The SLA promotes using the land for affordable housing.

### What is a Local Public Agency?

Examples of local agencies include cities, counties, housing authorities, special districts, etc. §54221(a).

### How to Use This Chart:

If you're one of the entities listed above, or an advocate who is trying to maximize affordable housing opportunities in your region, use this chart to understand how the SLA applies to land that is being sold or leased.

**Step 1:** Before a Local Agency decides to sell or lease land, they must determine if the land fits the definition of "disposal" under the Surplus Land Act §54222(d). Land that fits this definition includes surplus land for sale or for lease for a period longer than 15 years.

**Step 2:** When the Local Agency decides to sell or lease land that it owns, it must declare the land as SURPLUS or EXEMPT SURPLUS with written findings/information at a regular public meeting (§54221(b)(1)), or by written notice for certain types of exempt surplus land (§54221(b)(4)). The California Department of Housing and Community Development (**HCD**) is responsible for overseeing this process.

### 2A. Land is Declared Surplus

The Local Agency sends a Notice of Availability to certain interested parties, groups or entities, including affordable housing developers and HCD (§ 54222).

**If land is declared surplus, please view the flow chart on the back of the page.**

### 2B. Land is Declared Exempt Surplus

After declaring land to be EXEMPT SURPLUS, the Local Agency must submit the determination and written findings to HCD at least 30 days prior to disposition.

The Local Agency may sell or lease the land consistent with the requirements of the appropriate exemption.

**End of path**



## The Local Agency sends a Notice of Availability

This notice is sent to preferred entities including affordable housing developers, local government, school districts, park districts, and HCD (§ 54222).

### No Response is Received Within 60 Days

The Local Agency can offer the land to other interested purchasers. The Local Agency must record covenants to ensure that if 10+ housing units are developed, at least 15% of the total housing units must be sold or rented at affordable costs (§54233).

The Local Agency reports certain information (re: notices sent, negotiations, and affordable housing covenants) to HCD for review (§ 54230.S(b)(I)).

**End of path**

**End of path**

The Local Agency sells or leases the land by entering into a binding agreement that includes affordable housing covenants if applicable (§§ 54222.5, 54233.5).

### Response(s) Received Within 60 Days

The Local Agency prioritizes the proposals for affordable housing (§54227) and negotiates with various affordable housing groups or advocates for **at least 90 days** (§542223(a)).

### Parties Do Not Reach an Agreement

### Parties Reach an Agreement

The Local Agency reports certain information (re: notices sent, negotiations, and affordable housing requirements) to HCD for review (§ 54230.S(b)(I)).

### HCD Does Not Respond to the Local Agency or Provides the Local Agency With a Determination Letter Signaling Compliance With the SLA

### HCD Responds to the Local Agency Within 30 Days With a Findings Letter Stating That the Agency's Process Violates the SLA (§ 54230.5(b)(2)(C))

**Within 60 days** of HCD's notice, the Local Agency can correct the SLA issues or explain in writing why it believes the sale or lease complies with the SLA (§ 54230.5(b)(3)(A)(i),(ii)).

### HCD provides the Local Agency with a Determination Letter that says either all SLA issues are corrected or a written explanation has been accepted

### HCD provides the Local Agency with a Notice of Violation for either:

- **Failure to correct the SLA issues with no written explanation or**
- **HCD disagrees with the explanation.**

### Local Agency Fined by HCD if Land Sold or Leased

If the Local Agency sells or leases the land before correcting the violation, HCD will fine the local agency 30% of the greater of the sale price or the fair market value for the first violation and 50% for any subsequent violations. Third parties can sue to enforce these penalties (§54230.5(a)(I)).

The Attorney General may take action to enforce the SLA.

### Third-Party Enforcement:

If low-income individuals, affordable housing developers, advocacy groups, or other interested parties believe the Local Agency violated any step of the SLA, they may sue the Local Agency to get them to follow the rules (AKA compliance) or seek financial penalties. (§54230.S(a)(I))

**End of path**

HCD may refer the case to the Attorney General (§ 54230.5(b)(3)(B)). Prior to taking any action, the Local Agency must hold an open and public meeting to review and consider the substance of the Notice of Violation.