

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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May 15, 2026

Christina Bibler, Economic Development Director
City of San Diego
1200 3rd Avenue
San Diego, CA 92104

SENT VIA EMAIL TO: Cbibler@sandiego.gov

Dear Christina Bibler:

**RE: City of San Diego – 3220, 3240, 3250, and 3500 Sports Arena Boulevard –
Surplus Land Act Findings Letter**

The California Department of Housing and Community Development (HCD) received complete surplus land documentation from the City of San Diego (City) on May 7, 2026. This letter constitutes HCD's written findings pursuant to Government Code section 54230.5 of the Surplus Land Act (SLA)¹ for the surplus land located at 3220, 3240, 3250, and 3500 Sports Arena Boulevard, Assessor's Parcel Number 441-590-04 (Property).

Analysis

According to the City's May 7, 2026 letter and included documents, Resolution 313718 declaring the Property to be surplus² was adopted on October 23, 2021, and Notices of Availability (NOA)³ were sent on November 4, 2021. During the required 60-day noticing period,⁴ five affordable housing entities expressed interest in the property. The City reviewed and appropriately prioritized all five project proposals⁵ and was able to agree on price and terms with Midway Rising, LLC, which offered to develop a mixed-use project that includes 4,250 units of residential housing, of which 2,000 units will be affordable units. In addition, the City has provided a detailed summary of good faith negotiations.⁶ The City has also enclosed the appropriate draft affordability covenant,⁷ requiring 47 percent of the units to be affordable to households ranging from 30 percent

¹ Gov. Code, §§ 54220-54234.

² Gov. Code, § 54221, subd. (b)(1).

³ Gov. Code, § 54222.

⁴ Gov. Code, § 54222, subd. (e).

⁵ Gov. Code, § 54227.

⁶ Gov. Code, § 54223.

⁷ Gov. Code, § 54222.5.

of area median income (AMI) up to 80 percent of AMI, with a weighted average affordability not to exceed 60 percent of AMI, to be recorded against the Property.

Conclusion

If the submitted documentation and assertions by the City are complete and accurate, HCD finds that all the requirements under the SLA for the purposes of disposing of the Property have been met. Once a final disposition has taken place, please provide HCD with a copy of the respective recorded covenant pursuant to Section 400(b)(1) of the SLA Guidelines.

If you have any questions or need additional technical assistance, please contact Mathew Manweller, Senior Housing Specialist, at Mathew.Manweller@hcd.ca.gov or submit a request via the [Surplus Land Portal](#).

Sincerely,

Lisa Krause

Lisa Krause
Section Chief, Surplus Land Act
Housing Accountability Unit

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October 15, 2025

Christina Bibler, Director of Economic Development
City of San Diego
1200 Third Avenue
San Diego, CA 92101

SENT VIA EMAIL TO: cbibler@sandiego.gov

Dear Christina Bibler:

**RE: City of San Diego – Proposed Disposition of Surplus Land for Real Property
at 3500, 3250, 3220 and 3240 Sports Arena Boulevard (APN 441-590-04) –
Letter of Technical Assistance**

Thank you for contacting the California Department of Housing and Community Development (HCD) to request technical assistance pertaining to the potential disposition of surplus land located at Sports Arena Boulevard. The City has presented several questions to HCD regarding compliance with the Surplus Land Act (SLA). For the sake of organization, these questions are organized below into four categories: (1) applicability of the SLA Guidelines, (2) phasing requirements for housing in mixed-use projects, (3) affordable rent requirements in the SLA, and (4) affordable housing requirements when the successful developer's bid includes more affordable housing than what is subsequently proposed in a disposition and development agreement (DDA).

The Sports Arena Boulevard development envisions a multi-year, phased, mixed-use project that will include the construction of a new sports arena, commercial space, and market-rate and affordable housing. As currently proposed, the project will include approximately 4,250 units of housing, of which approximately 2,000 units would be affordable.

1. Which Version of the SLA Guidelines Apply to the Disposition?

The original SLA Guidelines were adopted in April 2021. The Updated SLA Guidelines were adopted in August 2024. The Updated SLA Guidelines recognize that some surplus land dispositions would begin under the original SLA Guidelines but be completed under the Updated SLA Guidelines. The Updated SLA Guidelines, therefore, include language that clarifies which Guidelines a local agency must follow for a disposition that takes place while two sets of Guidelines were in effect. That language, found in *Section 100: Applicability*, states:

These updated SLA Guidelines (hereinafter “Guidelines”) apply on or after the date adopted as shown on the cover page. The application of these updated Guidelines to the disposition of surplus land **shall be determined by the date of issuance of the Notice of Availability (NOA)**. The applicability of these updated Guidelines to exempt determinations shall be determined by the date that the property was declared exempt surplus land. Regardless of when Guidelines were adopted, the Surplus Land Act as amended is applicable to local agencies upon the date amendments went into effect. (Emphasis added.)

The Updated SLA Guidelines establish that a surplus land disposition, where the Notice of Availability (NOA) was issued prior to August 1, 2024, is subject to the original SLA Guidelines. As established in HCD’s Letter of Technical Assistance to the City dated September 6, 2022, the City issued an NOA for the mixed-use, multi-phased project on October 4, 2021.¹ Therefore, the disposition of surplus land at Sports Arena Boulevard is subject to the original SLA Guidelines. However, as noted in response to additional questions below, this should not be taken to mean that the City should proceed without regard to guidance that is now addressed in the Updated SLA Guidelines. In particular, the Updated SLA Guidelines address phasing requirements for mixed-use, mixed-income projects in Section 300(a). Although the original SLA Guidelines were silent on this issue, the standards for mixed-use projects in Section 300(a) would be expected regardless of when an NOA was issued.

2. In a Mixed-Use Project, When Must Housing/Affordable Housing be Built?

Questions regarding the timing of housing production in a mixed-use project (i.e., commercial development and mixed-income housing) are precipitated by the fact that mixed-use projects are often constructed in phases, and sometimes by different developers. The original SLA Guidelines do not address the question of when housing must be built during the construction of phased, mixed-use projects. However, the absence of guidance in the original SLA Guidelines should not be interpreted to mean that local agencies should proceed with mixed-use developments absent any parameters. In fact, for this reason, the Updated SLA Guidelines include guidance on such questions. At a minimum, the City must ensure that the production of housing, including affordable housing, meets the SLA’s requirements regarding the minimum number of affordable units, income eligibility, and maximum rents.

Beyond these minimum requirements, HCD addresses the City’s more specific question below. While the original SLA Guidelines are silent on this question, the Updated SLA Guidelines and the SLA itself are instructive.

How does HCD determine the number of housing units and number of affordable housing units that must be developed in each phase of a mixed-use project?

¹ HCD, Written Comments Regarding the City of San Diego’s Proposed Disposition of Surplus Land for the Real Property at 3500, 3250, 3220, and 3240 Sports Arena Boulevard (APN 441-590-04) (Sept. 6, 2022), available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/HAU/san-diego-sports-arena-disposition-090622.pdf>.

Does the SLA permit the complete construction of some commercial buildings in the absence of any housing?

The total number of housing units to be developed in each phase of a project will be determined by the DDA and the site plan approved by the local agency. The SLA permits, and pragmatism sometimes requires, phased developments where some phases will have housing and other phases will not. Section 300(a)(3) of the Updated SLA Guidelines distinguishes between developments and phased developments.

The affordable residential units ... must be developed prior to or at substantially the same time as the unrestricted units and non-residential portion of the development. **If the development occurs in phases**, the affordability requirement should be met in each phase. (Emphasis added.)

If the project is not completed in phases, the Updated SLA Guidelines require that the affordable housing is developed prior to or at substantially the same time as development of non-residential (i.e., commercial) construction and market-rate housing. If the project is completed in phases, the Updated SLA Guidelines anticipate three possible requirements.

First, if a phase contains non-residential development and housing, then the affordable housing must be developed prior to or at substantially the same time as the non-residential development and the market-rate housing.

Second, if a phase contains only housing, then the affordable housing must be developed prior to or at substantially the same time as the market-rate housing.

Third, if a phase contains only commercial development, the City should attempt to meet the affordability obligations in that phase by including residential development; however, where that is not feasible, the residential phase must happen prior to or at substantially the same time as the commercial-only phase of development. In other words, while a commercial phase may take place before a residential phase, it is expected that there would be little to no delay between the completion of the commercial phase and the start of the residential phase.

Therefore, HCD urges the City to adhere to this framework to ensure that the project remains feasible and that the housing, particularly the affordable housing, is constructed within a reasonable amount of time compared to the non-residential portion of the project.

HCD has met with representatives of the City and the developer to discuss plans that address both the phasing of housing and commercial development and the phasing of affordable and market-rate housing. The developer has submitted phasing plans that address both types of phasing (see Attachments A and B). HCD has reviewed both phasing plans and determined that, if implemented as proposed, they would meet the requirements of Section 300(a) of the Updated SLA Guidelines. However, if the phasing plan is revised or if the developer proposes to deviate significantly from the current plan,

HCD encourages the City to consult with HCD to ensure the project continues to comply with the SLA.

3. How Should a Local Agency Determine Affordable Rents when a Project is Subject to both the SLA and Tax Credit Allocation Committee (TCAC) Affordability Requirements?

As discussed in more detail in HCD's August 4, 2025 Letter of Technical Assistance (enclosed), Midway Rising (Midway) may set all or some of the affordable rents pursuant to Health and Safety section 50053, subdivision (b)(2), so long as the particular affordable housing development meets the requirements of that subdivision. Otherwise, the affordable rents must be set pursuant to subdivision (b)(1).

4. In the Event that an Affordable Housing Provider Secures a Successful Competitive SLA Bid but Subsequently Offers to Build Less Affordable Housing than Initially Offered, What Remedies are Available to the Local Agency?

According to the City, following the issuance of the NOA for the Sports Arena Boulevard project, the City received five SLA-compliant proposals and, pursuant to Government Code section 54223, the City entered into at least 90 days of good faith negotiations with three of the responding entities. At the conclusion of the initial good faith negotiation period, pursuant to Government Code section 54227, the City selected Midway to develop the project. The City did so, at least in part, because Midway offered to build more affordable housing than the other two interested developers. Under its original proposal, Midway offered to develop 2,000 affordable units subject to the affordability standards in Government Code section 54222.5 and Health and Safety Code section 50053, while the competing development teams proposed only 1,762 and 1,610 affordable units.

After the selection process was finalized, the City and Midway began negotiations to finalize a DDA. During those negotiations, Midway expressed interest in amending the number of affordable housing units to be included in the project. In an email to HCD, dated June 12, 2025, the City wrote,

According to Developer's response to the NOA and the City's follow-up request for information, the Project envisioned by Developer would include: (i) at least 2,000 residential rental units affordable to lower income households; (ii) at least 2,250 residential rental units offered at market rate rents; (iii) a new entertainment center; and (iv) certain retail, parking, and open space/park uses. During recent negotiations, Developer has expressed its intent to construct the minimum 2,000 affordable housing units in multiple phases, with each phase having an average affordability of 60% or less of area median income subject to HCD's approval. Developer is willing to commit in the site disposition agreements that at least 25% of the total residential rental units in the Project – i.e., a minimum of 1,063 units – will be affordable to lower income households consistent with California Health and Safety Code ("HSC") section 50053.

Government Code section 54223 provides the following:

After the disposing agency has received a notice of interest from the entity desiring to purchase or lease the surplus land on terms that comply with this article, the disposing agency and the entity shall enter into good faith negotiations to determine a mutually satisfactory sales price and terms or lease terms. (Emphasis added.)

This statutory language indicates that both the local agency and the developer are required to negotiate in good faith. If the developer were to propose a material change in terms, especially a significant reduction in the number of affordable units, this may indicate a lack of good faith negotiations on the developer's part. Moreover, if the City were to accept a proposal to reduce the total number of affordable units, this may raise concerns about the City's compliance with the good faith negotiation requirement.

Additionally, Government Code section 54227 notes:

In the event that any local agency disposing of surplus land receives a notice of interest to purchase or lease that land from more than one of the entities to which notice of availability was given pursuant to this article, the local agency shall give first priority to the entity or entities that agree to use the site for housing that meets the requirements of Section 54222.5. If the local agency receives offers from more than one entity that agrees to meet the requirements of Section 54222.5, **then the local agency shall give priority to the entity that proposes to provide the greatest number of units that meet the requirements of Section 54222.5.** (Emphasis added.)

In other words, in determining which developer may purchase the surplus land, a local agency must give priority to entities that offer the most affordable housing. The City has done this. However, the requirement to prioritize entities that offer the most affordable housing does not end with the initial selection of a developer but continues throughout the good faith negotiations phase until the City and the developer have executed a legally binding agreement that establishes price and terms, including the number of housing units and the number of affordable units. If the number of affordable housing units changes during the continuing negotiations such that one or more of the initial proposals now includes a greater number of affordable units, the City is obligated to reopen negotiations with those entities, unless the previously selected developer, in this case Midway, agrees to provide the number of affordable units previously agreed upon.

Conclusion

HCD appreciates the City's ongoing collaboration to ensure compliance with the SLA and hopes this letter provides clarification of the issues presented. If you have any questions or need additional technical assistance, please contact Mathew Manweller, Senior Housing Policy Specialist, at Mathew.Manweller@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Laura Nunn". The signature is written in a cursive, flowing style.

Laura Nunn
Housing Accountability Unit Chief