

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

2020 W. El Camino Avenue, Suite 500  
Sacramento, CA 95833  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



January 25, 2024

Daniel S. Hentschke, Assistant City Attorney  
City of Santa Barbara  
PO Box 1990  
Santa Barbara, CA 93102-1990

Dear Daniel S. Hentschke:

**RE: 400 West Carrillo Street - Letter of Technical Assistance**

Thank you for communicating with the California Department of Housing and Community Development (HCD) regarding the property at 400 West Carrillo Street (Property), currently owned by the City of Santa Barbara (City). The purpose of this letter is to provide written technical assistance regarding the applicability of the Surplus Land Act (SLA) to the sale or lease of the Property.

**Background**

HCD contacted the City on September 27, 2023 to learn more about the Property and provide technical assistance after learning about the proposed development of the site. Since that time, the City and HCD have exchanged emails and held one meeting. HCD appreciates the City sending requested documents to provide additional background on the Property and information about current proposals for the Property.

According to documentation provided to HCD, the Property has been used as a parking lot to serve the City's downtown. A Project Agreement executed on October 8, 2021 details a process by which the Property would be transferred from the City to the Housing Authority of the City of Santa Barbara (Housing Authority) and subsequently from the Housing Authority to an unnamed entity. The Project Agreement provides a Project Description with a "preferred Project" proposed to provide "60 units of rental housing for residents earning 80% to 160% of Area Median Income."

**Applicability of the SLA**

The SLA generally applies to leases or sales of real property owned in fee simple by a local agency:

“Surplus land’ means 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. Land

shall be declared either 'surplus land' or "exempt surplus land,' as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency's policies or procedures. A local agency, on an annual basis, may declare multiple parcels as 'surplus land' or 'exempt surplus land.' (Gov. Code, § 54221, subd. (b)(1); emphasis added.)

The following definition regarding the disposition of land is outlined in statute:

“Dispose” means either of the following:

(A) The sale of the surplus land. (B) The entering of a lease for surplus land, which is for a term longer than 15 years, inclusive of any extension or renewal options included in the terms of the initial lease, entered into on or after January 1, 2024. (Gov. Code, § 54221, subd. (d)(1);

As described in the Project Agreement, the City intends to enter into a Purchase-Sale Agreement with the Housing Authority. Such an action would require the City to declare the property “surplus land” or “exempt surplus land” and comply with applicable provisions of the SLA.

### **“Agency’s Use” and the SLA**

In an email to HCD received on October 31, 2023, the City asserts that the project constitutes an “agency use” as defined in Government Code section 54221, subdivision (c)(1). The SLA lists the following in defining “agency’s use:”

“... utility sites, property owned by a port that is used to support logistics uses, watershed property, land being used for conservation purposes, land for demonstration, exhibition, or educational purposes related to greenhouse gas emissions, sites for broadband equipment or wireless facilities, and buffer sites near sensitive governmental uses, including, but not limited to, waste water disposal sites, and wastewater treatment plants.” (Gov. Code, § 54221, subd. (c)(1).)

Absent further explanation detailing how the proposed project meets the criteria of “agency’s use” as defined in statute and HCD’s concurrence with those findings, the SLA applies to the disposition of the Property.

### **Next Steps**

The City may submit documents supporting findings that the Property qualifies as exempt surplus land under one of the exemptions outlined in Government Code section 54221, subdivision (f)(1). If the Property does not meet the requirements of one of the exemptions, the next steps for disposing of the Property in compliance with the SLA are as follows:

1. Declare the property surplus.
2. Send a Notice of Availability (NOA) to the required entities before selling or

- leasing the property or participating in negotiations to sell or lease the property. (Gov. Code, § 54222).
3. Provide entities at least 60 days from the date the agency sends the NOA to notify the City of its interest.
  4. Participate in good-faith negotiations for at least 90 days with each entity that responds to the NOA.

HCD is available to provide technical assistance regarding disposing of the Property in compliance with the SLA as needed or requested. Please note that following the transfer of the Property to the Housing Authority, the Housing Authority as a local agency defined in Government Code section 54221, subdivision (a)(1), would become fee simple owner of the Property and subject to the SLA for any future disposition of the Property.

Additional steps and information may be found in the technical assistance section of HCD's webpage at <https://www.hcd.ca.gov/> under Planning and Community Development, Public Lands for Affordable Housing Development tab.

If you have any questions or need additional technical assistance, please contact Sandra Mukasa, Housing Policy Specialist, at [sandra.mukasa@hcd.ca.gov](mailto:sandra.mukasa@hcd.ca.gov).

Sincerely,



Laura Nunn  
Senior Manager, Housing Accountability Unit  
Housing Policy Development

CC: Sarah Knecht, Interim City Administrator, City of Santa Barbara  
Rob Fredericks, Executive Director, Housing Authority of the City of Santa Barbara  
Skip Szymanski, Deputy Executive Director, Housing Authority of the City of Santa Barbara  
Mark S. Manion, General Counsel for the Housing Authority of the City of Santa Barbara, PPP Law  
Dale Fathe-Aazam, Director of Real Estate and Technology, the Housing Authority of the City of Santa Barbara