**NATIONAL SPORTS LAW   
NEGOTIATION COMPETITION 2019**

**FINAL ROUND**

*“On a Mission”*

**GENERAL FACTS FOR BOTH TEAMS**

When the Chargers left San Diego for the alleged greener pastures of Los Angeles in 2017, a major void was left in the San Diego professional sports landscape. All of a sudden San Diego—a city that once boasted three successful franchises in the Chargers, Clippers, and Padres—was down to just one professional sports team: the long-struggling Padres. But perhaps more critically, the Chargers’ move up the Pacific coast left the city with an albatross of a football stadium in SDCCU Stadium (formerly known as Qualcomm Stadium and Jack Murphy Stadium).

Indeed, it can be said that SDCCU Stadium was one of the major reasons why the Chargers left San Diego for Los Angeles. One of the few remaining “cookie cutter” stadiums built to host both baseball and football, the 70,561 capacity stadium has been known to be something of a wreck for years with one sportswriter back in 2013 stating that calling the stadium a dump “really is an insult to dumps.”[[1]](#footnote-1) According to an independent audit conducted by the city in the process of deliberations over a new Chargers’ stadium, the stadium needed $70 million in maintenance and repairs.

As such, when the Chargers bolted for Los Angeles, it did not take much time before two competing proposals surfaced with ideas of what to do with the SDCCU Stadium land (the “Mission Valley site”)—both of which hinged on the imminent demolition of the stadium for redevelopment. Nearby San Diego State University (“SDSU”) proposed purchasing the Mission Valley site for the construction of an auxiliary campus with office space, 4,500 housing units, hotel space, a river park, and a 30,000-40,000 seat multisport stadium for SDSU Aztecs sports.[[2]](#footnote-2) The second proposal, led by a group of local private investors, Major League Soccer (MLS) owners, and Los Angeles Galaxy star and San Diego native Landon Donovan (the “SoccerCity” group), would allow the SoccerCity group to lease the Mission Valley site for redevelopment into a privately-financed stadium to be principally used by a new San Diego MLS franchise as well as the Aztecs.[[3]](#footnote-3) The SoccerCity development proposal also included room for private housing, retail shops, and a river park to be built around the stadium.

There was, however, one major issue with the SoccerCity proposal: the MLS had given no public indication that they would be awarding a new franchise to San Diego with or without the new stadium. The MLS has been rapidly expanding since it started with just 10 teams in 1996; after sitting at 20 teams from 2015-2016, the league has added new teams in Atlanta and Minnesota in 2017, Los Angeles in 2018, and Cincinnati in 2019, and has confirmed future expansion in Miami (2020), Nashville (2020), and Austin (2021). As the addition of Austin in 2021 would give the league an uneven 27 teams, the league has already indicated that they are looking to add a 28th team starting in the 2022 season. Currently, there are four cities in contention for the 28th team: Detroit, Sacramento, St. Louis, and San Diego.

The idea of expansion into San Diego and St. Louis each intrigued MLS ownership for one principal shared reason: the vacuum created in each city created by the recent departures of the cities’ respective NFL teams: the Rams for St. Louis and the Chargers for San Diego. While the MLS has not shown that they are bound to stay away from cities with NFL teams, their recent expansion strategy has been to target cities without much professional sports competition. In San Diego, the MLS would only have to compete with the Padres and potentially the San Diego Fleet—the city’s new Alliance of American Football (AAF) franchise—if the AAF remains around by the time the new San Diego MLS franchise starts, which is a major question mark. Similarly, a new St. Louis franchise would only have to compete with the MLB St. Louis Cardinals and NHL St. Louis Blues, along with potentially an AAF or XFL franchise if either of those leagues remain viable and decide to expand into St. Louis in the future.

While all public news indicates that Sacramento and St. Louis seem to be leading the pack for 2022 expansion, San Diego does have one major drawing point for the MLS: the imminent 2026 World Cup, which will be hosted jointly by the United States, Mexico, and Canada. The MLS used the last time the United States hosted the World Cup to launch the league in 1994, and MLS leadership feels strongly that the upcoming cup is an opportunity to showcase how much the league has grown since then. While San Diego would not be in the running to host a match—the bidding process has already started and the new stadium would be too small anyway—the MLS feels that the city’s proximity to soccer-crazy Mexico would help attract Mexican-American families, immigrants, and fans from over the border when the sport’s awareness is scheduled to be at its highest.

In November 2018, both the SDSU and SoccerCity proposals went before San Diego voters as citizen initiatives, with each measure requiring at least 50 percent of the vote to pass. Unfortunately for would-be MLS fans in San Diego, the voters made their wishes rather clear, resoundingly rejecting the SoccerCity proposal 70 percent to 30 percent, while passing the SDSU proposal by a 54 percent to 46 percent margin.[[4]](#footnote-4) This gave SDSU direct control over the Mission Valley site, and set a dim tone for the prospects of professional soccer in San Diego.

Although SoccerCity officials called their proposal San Diego’s only shot at drawing an MLS team to the city during the 2018 campaign, SoccerCity’s defeat did not completely foreclose the possibility of MLS expansion into San Diego. In February 2019, multiple media outlets reported that MLS officials met with SDSU officials to discuss the possibility of the new SDSU stadium hosting an MLS team when it is scheduled to open in 2022.

So far, these meetings have not made much progress; the two sides have discussed in broad terms what an agreement could look like but have not come to terms on much of anything. However, with the MLS looking to wrap up discussions over 2022 expansion in the near future, the MLS and SDSU have agreed to send representatives to discuss in good faith whether an agreement between the two organizations is possible. The MLS have given their team full authorization to be creative to find a mutually beneficial agreement with SDSU, if one can be reached within the timeframe of the limited negotiation session. By the same token, the SDSU team has been given the authority to agree to any solution with the MLS that will advance SDSU’s public and private interests.

**CONFIDENTIAL FACTS FOR SAN DIEGO STATE UNIVERSITY**

The go-ahead from the San Diego voters on SDSU West was something of both a blessing and a curse for SDSU. When SDSU president Adela de la Torre took her position in June 2018, the potentiality of the project was a major concern for the university’s Board of Trustees, who saw the expansion as a means to vault SDSU’s status as the preeminent university in San Diego. Along with SDSU, San Diego boasts two excellent research institutions in the University of California-San Diego and the University of San Diego, but neither of those universities have anywhere near the sports program that SDSU has put together over the past few decades. The Trustees see the SDSU West project as a way to both distinguish SDSU from those universities by continuing to invest in the athletic programs while also allowing for much-needed expansion of housing and academic buildings into the Mission Valley site.

However, the passage of Measure ‘G’ granting SDSU the rights to the Mission Valley site also carried with it a huge responsibility for SDSU to its stakeholders. From the beginning, SDSU has pledged to not rely on taxpayer dollars, student tuition, or student fees to build the SDSU West campus, and President de la Torre and the Board of Trustees fully intend to honor that pledge. At the same time, however, plans for the new stadium and the rest of the site have become costlier than expected; the stadium was originally projected to cost $150 million but the school’s best projections recently ballooned the cost to $250 million.

Indeed, that stadium represents a significant source of pressure for SDSU Athletics, both because the Aztecs would likely not have a home in a few years and because it is their best chance to finally move the football program out of the mid-tier Mountain West Conference and into a Power Five conference like the Big 12 or Pacific-12. SDSU Athletics has been working both conferences for nearly a decade in an attempt to get a share of the largest revenues in intercollegiate football. SDSU has been met with failure on all occasions, in large part because the rundown SDCCU Stadium was simply not fit for a Power Five program. Building a brand-new stadium on the Mission Valley site would give SDSU a chance to have a new stadium that fits the Trustees’ image of the school’s football program and remake the university’s image in the eyes of other big-time football programs.

While the MLS represents an entity that has been a major threat to its plans all throughout the expansion process, SDSU feels that having additional big-name tenants can help them secure the money necessary to keep the stadium on schedule. Only a few professional sports leagues remain in San Diego following the departure of the Chargers. SDSU thus has options with respect to potential tenants. The Padres are certainly not moving from downtown Petco Park, the minor league hockey San Diego Gulls obviously would not be able to use an outdoor stadium, and the Trustees have concerns about the viability of both the AAF’s San Diego Fleet and Major League Rugby (MLR)’s San Diego Legion. Both of these leagues are brand new—the AAF just played their first games in February 2019 and the MLR started in 2018—and while both leagues were interested in installing their teams into the new SDSU stadium whenever it is finished, initial conversations have revealed that neither league is willing invest in such a prolific project when their viability remains in doubt. It is extremely unlikely that the NFL will return to San Diego, and even if the league might consider returning, SDSU’s proposed new stadium would be much too small for an NFL franchise. SDSU has gleaned that the MLS is their best hope for securing the funding necessary to keep the stadium a priority given the university’s other interests.

SDCCU Stadium would be long gone by 2022. So if the MLS insists on 2022 for expansion to San Diego, any delay in construction of SDSU’s new stadium would obviously be of major concern. If the new stadium is not ready by the time that the new MLS franchise is awarded, it may be a major problem for SDSU’s potential relationship with the MLS. While SDSU plans to start construction in 2020—which should allow them to open the stadium by the start of the MLS season in 2022—the university has not yet even completed purchasing the Mission Valley site from the City of San Diego, let alone broken ground on any aspect of the project. Opening the stadium by *February* 2022 for the MLS season is possible but would be a major logistical challenge; an August 2022 opening in time for football season is a much more conservative and likely proposition.

While renting the stadium to an MLS team would certainly help speed up the process, it is not the only option that SDSU has to get the stadium done. After all, even in a best-case scenario the MLS contract does not represent that much money when the full roughly $250 million cost of the stadium is considered, and the MLS contract will not even pay out for SDSU until the stadium is complete. Until the MLS comes to town, SDSU is confident that they will get the alumni donations, California State University-funded bonds, and loans needed to complete the entire SDSU project; it may just take a little bit longer than expected if they cannot borrow against a signed MLS lease agreement. The stadium will get done regardless, but without a strong and firm commitment from the MLS to both add a San Diego team in 2022 and lease the new stadium when it opens, SDSU cannot commit to opening the stadium in time for the start of the 2022 MLS season.

SDSU has no interest in paying an MLS team to play in a different stadium, and the Board of Trustees will not approve any deal that requires the university to shoulder any costs that the delay may inflict on the MLS. Given the tight timeframe, in fact, the university feels that the MLS might be better off waiting to award a San Diego franchise. While SDSU knows that the MLS is currently only discussing 2022 expansion, the university would love it if the league would wait until 2023 or 2024 to add a team so the school can be confident that the stadium will open in time.

While MLS representatives did not indicate that future expansion was on the table in previous conversations, if SDSU can convince the league to expand to San Diego as their 29th or 30th team instead of their 28th team, it would make things much easier for the school, and hopefully for the MLS as well.

While potential terms of a lease agreement were not discussed at the last meeting between SDSU and MLS representatives, the SDSU team in charge of planning stadium construction has researched lease agreement terms for MLS stadiums with the hope that these numbers could be discussed in this meeting. Unfortunately, the results were not particularly promising for SDSU. Based on publicly-available information, recent MLS lease agreements tend to range between $200,000 and $550,000 per year, with some outliers in different directions. For example, the MLS’s lease agreement with the city of Nashville for the new Nashville MLS franchise starting play in 2020 calls for the league to pay the city $200,000 annually for 30 years for use of their newly-built soccer-specific stadium. Similarly, the MLS will pay the city of Austin $550,000 per year for the last 15 years of a 20-year term (no rent for the first five years), with three mutual 10-year option periods. While SDSU officials feel that the MLS was advantaged by the fact that they were working with local politicians rather than a university in both of these deals, the MLS is also getting more out of these agreements, including exclusive use of a soccer-specific stadium and exemptions from local property taxes—which SDSU obviously cannot provide.

On the outliers, the MLS’s current agreement with the University of Cincinnati calls for the league to pay the University $5,000 per match for the first year of the agreement (2019), with a 2 percent raise each year following until the team moves into their new soccer-specific stadium. As the MLS season has 17 home regular season matches per year plus an additional four preseason matches, this works out to just $105,000 in rent for that first year. On the other end of the spectrum, the MLS was forced to pay Georgia Tech $1 million to use Bobby Dodd Stadium for the first half of Atlanta United’s inaugural season (8 games) while Mercedes Benz Stadium was delayed. However, researchers see that deal as a clear result of short-term need, and it is unlikely that the MLS will be receptive to anything close to that number in negotiations with SDSU.

In order for a deal with the MLS to be worthwhile to the University, any lease agreement should be at the upper end of the spectrum—preferably more than $400,000 per year but at a minimum more than what the league will be paying the city of Nashville. To help consummate the deal, the SDSU trustees are willing to allow the MLS the right to retain all net concessions and ticketing revenue for the San Diego team’s home games, though the university would strongly prefer to keep parking revenues if possible. Even without providing parking revenues to the MLS, SDSU feels that this is a strong gesture of goodwill towards the league—especially given that the University’s current lease agreement with the City of San Diego for SDCCU Stadium calls for the City to retain both parking and concessions—and should be met in kind by a strong commitment by the MLS to pay their fair share in rent to their prospective tenants, SDSU.

In regard to the length of the deal, SDSU would want to secure a favorable rate for as long as possible—particularly if the deal includes a rent payment of greater than $500,000 per year. San Diego has been burned plenty of times by professional sports leagues in the past, and SDSU is concerned that the MLS will try and jump ship if the team is not successful and the rent is higher than they would like to pay. The university is willing to consider allowing the MLS to break the lease at no more often than once every 10 years without paying a penalty but would prefer to include a liquidated damages clause if the lease is broken at any other point other than these specific opt-out periods. This liquidated damages clause should require the MLS to pay no less than 40 percent of all remaining rent owed to the University to allow the University to recover from the potential loss of revenue and loss of goodwill.

Given the uncertainty surrounding the Fleet and Legion, the University is not close to coming to terms with either the AAF nor the MLR on lease agreements with either of those teams. Indeed, while preliminary discussions with the AAF have led to mutual interest in an agreement down the road, the MLR has signaled their preference to remain in the much cheaper and much more appropriately-sized (6,000 capacity) Torero Stadium on the campus of the University of San Diego, rather than move to the much more expensive and 30,000 capacity SDSU Stadium.

As such, the University is willing to grant the MLS second priority regarding potentially conflicting dates with any competing lessor, with only SDSU football ahead of the MLS in selecting favorable dates during the fall months. The University feels that this offer should be particularly enticing to the MLS given the length of the MLS’s schedule—the MLS regular season is from early-March through early-October, with a full month of February allotted to preseason matches and a longer-than-average postseason from October through mid-December—and the fact that MLS matches are exclusively played on Saturdays and Sundays. As SDSU football will only be playing on Saturdays—or potentially the occasional Friday night—there should not be much conflict whatsoever. SDSU would require the MLS to schedule all postseason games on Sundays, however, as the MLS’s regular postseason of October through December covers a large part of SDSU football’s schedule.

The spring months should be of no concern to the MLS. SDSU Football currently utilizes the lacrosse field and Fowler Athletics Center on the current campus for all training camps and practices, and the program has no plans to shift the spring camps to SDSU West. Moreover, while the athletic department briefly considered hosting men’s and women’s soccer games at the new stadium, the soccer teams have told the SDSU administration that they would prefer to stay at their current state-of-the-art field on the SDSU Sports Deck, which has a state-of-the-art natural grass surface that the soccer student-athletes vastly prefer to the planned artificial surface at the new football stadium. While the University hopes that it will be able to convince the teams to play some of their bigger home games at the new SDSU Stadium when it opens, they are willing to cede priority to the MLS and work around the MLS’s schedule to decide when to move the soccer teams to the new stadium.

**CONFIDENTIAL FACTS FOR MAJOR LEAGUE SOCCER**

MLS commissioner Don Garber and the MLS board of governors feel like they are in an enviable position. Despite the league’s slow start after its 1994 launch, the MLS has grown substantially over the past few years, both in terms of the support the league receives nationwide and the successfully added new franchises. The days of financial struggles and folding teams seem to be over; Garber and the board of governors need only to point to the passionate fanbases in Atlanta, Seattle, Minneapolis, and Columbus to show that the league is starting to take hold within the zeitgeist of American professional sports. While attendance last year dropped by 1 percent from 2017, the MLS Cup drew a record 1.56 million viewers—a 71 percent rise from 2017—and the league continues to add to its $90 million per season combined television deals with FOX, ESPN, and Univision with additional new media content packages. There have been challenges in recent years, but Garber feels that the league has responded well to each of these tests.

The MLS has publicly named four finalists for expansion in 2022: Detroit, Sacramento, St. Louis, and San Diego. Internally, however, there is not much debate as to the likely winning bid for the league’s 28th franchise. Sacramento has gained much of the board’s support due to the presence of the Sacramento Republic—an existing United Soccer League (USL) franchise with fervent fan support and a soccer-specific stadium built in 2014—10,000 signed commitments for season tickets for a new franchise and plans to build another new 19,621-seat stadium in downtown Sacramento once the MLS approves their bid.

Commissioner Garber and a vast majority of the MLS Board of Governors made it very clear at the most recent board meeting in December 2018 that Sacramento was the MLS’s best option moving forward, though the governors have agreed to hold off on making a final decision to see whether St. Louis and San Diego can sweeten their bids. Adding a franchise in Detroit is likely off the table; local figures and the potential ownership group have shown little appetite for building a new soccer-specific stadium for the team, preferring instead for the team to play in Ford Field (home of the NFL Detroit Lions) which the MLS feels would be too big and too expensive to be viable long-term option for the new team.

Falling between Sacramento and San Diego in the MLS’s current pecking order, St. Louis has shown the most public support for a new MLS franchise and has even put forth plans for a new downtown soccer-specific stadium. However, the St. Louis bid has seen little movement in bringing private sponsorship money on board, which is of obvious importance to the MLS in regards to the long-term stability of the new team. San Diego, on the other hand, has the opposite problem; sponsors have privately come out in droves in support of a potential new franchise, but the public—as evidenced by the 70 percent “no” votes for the SoccerCity bid—have made their intentions clear that a publicly-financed stadium is not in the cards. A favorable deal for the new SDSU stadium would help ease those concerns.

Even if the 2022 expansion franchise ends up going to Sacramento as expected, Garber raised the idea of further expansion in 2024 at the December board of governors meeting. While the league has no interest in retaining 29 teams for even a short period of time, an even 30 to match MLB and the NBA could be viable if two cities can be secured. At this time, the MLS feels that St. Louis is a much better bet than San Diego but league officials could be persuaded to take both if SDSU is more receptive to a lease agreement than expected. The league has other potential options to add to either St. Louis or San Diego, including San Antonio, Indianapolis, Phoenix, Rochester, Raleigh, and Tampa/St. Petersburg, but the bids of these cities are either still fairly nascent (Indianapolis, Phoenix, and Tampa/St. Petersburg) or long-stalled due to difficulties in securing stable investors and/or the political capital necessary for stadium funding (San Antonio, Raleigh and Rochester).

Generally, the MLS is used to working with local municipalities and counties for stadiums to build their own stadiums with a mix of public and private money. Working with SDSU—a public entity, but with their own interests in using and maintaining the stadium—will be a challenge, but not one that the MLS is completely unfamiliar with. Some of the league’s most popular teams—the Seattle Sounders, FC New York, the New England Revolution, and the Atlanta United—share their stadium with NFL or MLB teams. In all of those situations, however, the stadiums are either publicly owned (FC New York and the Atlanta United) or shared ownership with the MLS and their co-tenant (the New England Revolution and Seattle Sounders). FC Cincinnati has also started new life as an MLS franchise playing in Nippert Stadium on the University of Cincinnati campus, but only on a temporary basis, as the city of Cincinnati granted the MLS $33.9 million for a new soccer-specific stadium set to open in 2021.

The MLS’s agreement with the University of Cincinnati calls for the league to pay the University $5,000 per match for the first year of the agreement (2019), with a 2 percent raise each year following until the team moves into their new soccer-specific stadium. As the MLS season has 17 home regular season matches per year plus an additional four preseason matches, this works out to $105,000 in rent for that first year. MLS officials were extremely happy with this deal, as while the 118-year-old and 40,000 capacity Nippert Stadium is a less-than-ideal home for an MLS team—even on a temporary basis—the rent payment was low enough to justify the ill-fit.

By contrast, the MLS was forced to pay Georgia Tech $1 million to use Bobby Dodd Stadium for the first half of Atlanta United’s inaugural season (8 games) while Mercedes Benz Stadium was delayed. While the absurdly high cost of that deal was a clear result of short-term need, the MLS would strongly prefer not to come anywhere close to that number again.

Other MLS lease agreements have been generally placed within that spectrum. The MLS’s lease agreement with the city of Nashville for the new Nashville MLS franchise starting play in 2020 calls for the league to pay the city $200,000 annually for 30 years for use of their newly-built soccer-specific stadium. Similarly, the MLS will pay the city of Austin $550,000 per year for the last 15 years of a 20-year term (no rent for the first five years), with three mutual 10-year option periods. The MLS was of course advantaged by the fact that they were working with local politicians rather than a university in both of these deals, but given that the league will be getting full access to those stadiums instead of just partial access, the MLS sees those deals as worthy comparisons for a deal with SDSU. Further, both of those deals also included exemptions from local property taxes—something that SDSU obviously cannot provide.

Along with a favorably low lease payment, the MLS would like to retain all ticketing, parking, and concession revenue for all MLS games hosted at the SDSU stadium. This is a standard part of the league’s agreements with all of their landlords; the league is generally unwilling to waiver on this clause. If SDSU insists on retaining any percentage of any of these rights, the annual lease payment should be accordingly dropped to account for the less-than-favorable overall terms of the agreement. As is standard practice with stadium lease agreements, the MLS will pay all operating costs for the days that they have exclusive rights to the stadium.

In regard to the length of the deal, the MLS wants to secure a favorable rate for as long as possible. However, if the rate is higher than what the league is paying the city of Austin, the league would prefer to keep the lease as short as possible—preferably fewer than 20 years—with as many favorable opt-out clauses as they can get. While the MLS feels good about the potential viability of a new San Diego team, the league knows that the city has had significant trouble retaining public interest in professional sports in the past and wants the flexibility to get out of a bad deal and move the franchise if necessary. This flexibility would preferably come in the form of regular opt-out periods both early and later in the overall term of the deal, but the league would also accept a favorable liquidated damages clause that requires the league to pay less than 50 percent of remaining rent owed should the league break the lease to move the team.

Also of concern is the potential competition with other lessors for prime scheduling at the stadium. The MLS has shifted its focus from leasing existing stadiums to persuading municipalities to build them soccer-specific stadiums largely due to the difficulties that the league had early on in competing with other sports at stadiums. League managers require a full day for each match for preparation and clean-up and thus cannot host a match on the same day that another sport plays at the stadium, making scheduling difficult when more lessors are added to the mix. Adding to these difficulties, the MLS schedule covers a wide range of the calendar year; the regular season is from early-March through early-October, with a full month of February allotted to preseason matches and a longer-than-average postseason from October through mid-December. MLS matches are also exclusively played on Saturdays and Sundays—which is prime time not just for the MLS but for other competing leagues. Thus, it is imperative that the agreement manifests adequate assurances that the MLS will be given sufficient priority to utilize the stadium.

Based on prior conversations with SDSU, the MLS sees five potential conflicts with the SDSU stadium. First, SDSU has three of its own teams that may play in the new stadium during the fall semester: SDSU football, SDSU men’s and women’s soccer. These teams may also be angling to host camps at the new stadium during the spring and summer months.

Second, the MLS knows that SDSU has been in contact with two other professional leagues to potentially lease out the new stadium: the AAF San Diego Fleet and Major League Rugby’s (MLR) San Diego Legion. Working with each league presents its own challenges. The AAF currently only runs from early-February through April but may expand their current 10-week schedule if the league proves successful. The MLR runs from late-January through June. The Fleet currently play at SDCCU Stadium and will almost certainly want to move into the new SDSU stadium if the team still exists by the time the stadium opens, which MLS executives doubt given the poor history of other spring football leagues throughout the past few decades. While the Legion seem more stable having already completed a successful 2018 season and presents more of a logistical challenge to the MLS with a longer schedule, MLS executives feel that it is unlikely that the much smaller league will want to move the team from the University of San Diego’s 6,000 capacity Torero Stadium into a more expensive new home.

Obviously, the MLS would strongly prefer to have the right of first refusal for all home match dates throughout the entirety of the MLS schedule. However, the league knows that this goal is probably unrealistic, especially when it comes to scheduling against SDSU’s own teams, particularly football. As such, the MLS is willing to allow SDSU football first priority for all home dates during the college football season and is even willing to adjust any potential MLS playoff dates to account for prescheduled SDSU home games. If necessary, the MLS will also cede to both SDSU soccer teams should the teams move to the new stadium.

However, the MLS is unwilling to cede priority to SDSU football and soccer for practice and camp dates and wants to retain priority over the Fleet and Legion. The MLS feels that they have established themselves enough and that the AAF and MLR should work around the MLS’s schedule, not the other way around. If SDSU is not willing to grant the MLS this priority for whatever reason, including if they have already agreed to terms with the AAF or MLR, the MLS will be unwilling to agree to any deal with SDSU unless the deal is extremely favorable to the league on all other terms—including a lease payment of no more than $50,000 per year.

One final issue for the MLS surrounds what happens if the new stadium is not ready by the time that the franchise is awarded. While to the MLS’s knowledge SDSU has not yet broken ground or even come close to finalizing plans Mission Valley site, based on their prior conversations, the MLS knows that SDSU is targeting a 2022 opening date. That date would line up perfectly with the 2022 expansion date and even gives the league a 2-year cushion if the league goes ahead with Sacramento (as preferred) and saves San Diego and St. Louis for 2024.

If SDSU insists on the MLS granting a San Diego franchise in 2022 however, any delay in construction would be a major concern for the MLS. The SDCCU Stadium will be demolished to make way for the new SDSU stadium. The MLS had tentatively approached the Padres about the possibility of hosting matches at Petco Park but was quickly dissuaded by the $5 million per year price tag. As such, if there is any construction delay on SDSU’s part that impacts the new San Diego MLS franchise’s ability to play at SDSU, the league insists that SDSU will shoulder all costs for the MLS to find a new venue or allow the league to immediately break the lease and force SDSU to pay liquidated damages to the MLS in accordance with the liquidated damages clause discussed above.

1. Jim Trotter, *An Insult to Dumps Everywhere*, Sports Illustrated (Aug. 16, 2013), <https://www.si.com/2013/08/16/qualcomm-stadium>. [↑](#footnote-ref-1)
2. *See* Erik Anderson, *Measure G Leads In Returns, Which Would Pave Way For SDSU Expansion In Mission Valley Site*, KPBS (Nov. 7, 2018), <https://www.kpbs.org/news/2018/nov/07/measure-g-mission-valley-stadium-SDSU-soccer-city/>. The Mission Valley site is about five miles—or a 20-minute trolley ride—from the SDSU main campus. [↑](#footnote-ref-2)
3. Rachael Guerra, *SoccerCity Announces Proposal Details for Qualcomm Stadium*, NBC San Diego (May 19, 2017), <https://www.nbcsandiego.com/news/local/SoccerCity-Announces-Proposal-Details-for-Qualcomm-Stadium-423220694.html>. [↑](#footnote-ref-3)
4. NBC 7 Staff, Decision 2018: San Diego Mission Valley Stadium Plan, NBC San Diego (Nov. 6, 2018), <https://www.nbcsandiego.com/news/local/San-Diego-Which-Mission-Valley-Stadium-Plan-Won-the-Election--499853721.html>. [↑](#footnote-ref-4)