

MEMORANDUM OF AGREEMENT

MT SAC DRAFT 10/24/17

I. Parking Structure:

1. Remove multi-level Parking Structure location at Lot A by eliminating it from Master Plan, no later than the next Master Plan Update. Surface parking allowed.
2. Mt SAC agrees that any new parking garage shall:
 - a) require Mt. SAC to seek approval from the City of Walnut for required permits before, ~~or at the time~~ the project is approved.
 - b) comply with CEQA, including preparation of a project level traffic study if required.
 - c) any parking structure shall maintain a setback of no less than 400 feet from the nearest single family residential property line.
 - d) require Mt. SAC and the City to “meet and confer” to evaluate the potential negative impacts of the actual design, mass, size, capacity of the proposed parking structure on nearby residents to determine whether a larger buffer and other mitigation measures may be appropriate.
3. Mt. SAC agrees it shall:
 - a) install and maintain landscaping along Edinger with 15-gallon like-kind and like-sized trees and shrubs (trees similar to those recently placed on Mountaineer; shrubs continuing as they are from where they were removed) within 180 days of a signed settlement agreement.
 - b) remove the currently stored concrete pipes and vaults within 90 days of a signed settlement agreement approved by the governing bodies of the parties as required by law and made enforceable under CCP 664.6 per Section VI below (with area no longer to be used as a storage area).
4. Mt. SAC agrees it will consider the location of a parking project near the Mt. SAC Transit project. The Mt. SAC agrees to evaluate the benefits of prioritizing the siting of future parking structures in proximity to the Transit Center and along Temple Avenue.
5. ~~Mt. SAC agrees it will consider a pedestrian bridge project.~~

II. Solar Farm Project:

1. Mt SAC agrees to permanently abandon the Solar Generating Farm at West Parcel site and shall eliminate it from the Master Plan no later than the next Master Plan Update. Mt. SAC agrees no future energy project shall be approved at the West Parcel site under any land use or zoning exemption. Appropriate restrictive covenants “running with the land” will be recorded.

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2. UWT and the City agree to not oppose any reasonable land use of the West Parcel site that does not violate Section 1 above and meets applicable law, including applicable provisions of the City of Walnut Municipal Code, California Division of State Architect and California Geological Society.
3. Any future proposed project or plan for development for the West Parcel Site shall be reviewed and processed by Mt. ~~Sac~~ SAC as a new project under its Master Plan and CEQA. UWT reserves its rights to participate and object regarding any new and future plan of development for the West Parcel site.
4. Mt. SAC shall be allowed to deposit approximately 139,000 cubic yards of dirt on the West Parcel Site in connection with the construction of the Stadium PEP project described in Section III above ("Earthwork"). The Earthwork shall be reviewed and approved by ~~UWT and~~ the City based on current grading plans, ~~as modified to provide for contouring.~~
 - a) The City agrees to process the grading plans for the West Parcel Site and Stadium PEP project "over the counter" for review and approval by the City Engineer within one week of approval of this ~~agreement.~~ Memorandum of Agreement. No precedence shall be established. Mt. SAC agrees this "over the counter" review and approval shall not waive the right of the City to require Planning Commission discretionary review for other grading plans as they may come up in the future.
 - b) Mt. SAC agrees ~~the grading plans for~~ the West Parcel Site shall incorporate "contouring" to provide a visually appealing and environmentally friendly site. Mt. SAC will provide ~~irrigation and maintenance of the site.~~ The for such contouring ~~will incorporate elements in landscaping plans showing plantings and locations~~ of swales, mounds ~~and/or~~ slopes, trails and irrigation. Earthwork required for the contouring under the landscaping plans will not be considered as part of the 139,000 cubic yards of earthwork described above.
 - c) Mt. SAC may build a temporary access road for the West Parcel Site as reasonably necessary for the earthwork; however, no permanent access road shall be built on the West Parcel Site except as part of an approved project under Section II. 3, above.
5. The Mt. SAC Board will approve the Solar Project and SEIR at the 10/11 Board meeting that limits the Solar Project to "Phase I" grading work and landscaping consistent with Section II. 4, above. No additional project scope will be approved. Mt. SAC, ~~with the approval of~~ the City and UWT, agree Mt. SAC may adopt an addendum to the SEIR as necessary for the grading and landscaping operations to commence on the West Parcel site.

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6. The City and Mt. SAC will “meet and confer” prior to adoption of resolutions under Government Code section 53094 exempting “school classroom facilities” from local building and zoning controls with respect to future development on the West Parcel.
 - a) If the “meet and confer” is not successful, the City and Mt. SAC will engage good faith mediation prior to commencement of legal action by either side.
 - b) The City is granted a “right of first refusal” should Mt. SAC decide to sell the West Parcel site; provided, however, such right of first refusal shall be subject to the provisions in the Education Code and any other applicable law regulating the disposition of California community college district property.

III. Stadium (PEP) Project:

1. The City and UWT agree not to oppose the construction of the Athletic Complex as shown in the CEQA documents and modified per Section II. 4, above. The use of the Athletic Complex shall be subject to reasonable use restrictions as determined by Mt. SAC in its discretion, but shall include the following use restrictions:
 - a) No alcohol except as allowed by law
 - b) Mt. SAC will bear all security costs incurred for events, or pass them on to third party users, including costs arising from City police and fire services.
2. The City will process the grading plans for the PEP “over the counter” as described above in Section II. 4 above.
3. Mt. SAC will indemnify the City for damage to City road arising from earthmoving truck hauling through identified and adopted mitigation measures supporting the SEIR. City does not waive any claims for additional damages.
4. Mt. SAC will agree to formation of a Stadium task force to include City and Mt. SAC representatives to discuss partnering opportunities.
5. Mt. SAC will agree that it will expedite processing requests by the City to use the Stadium during times that do not conflict with College use and schedules.
6. Mt. SAC and the City will discuss in good faith restoring the annual Fourth of July fireworks at the Stadium.

IV. Future Projects:

1. For commencement and/or implementation of either Master Plan projects or Master Plan Updates (MPU), written notice to United Walnut and City shall be

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- given at the earliest time that Mt. ~~Sac~~ SAC issues either its Request for Qualifications (RFQ) or Request for Proposals (RFP) for any architect or design or other consultant or contractor, and hold one or more community workshops about the intended project and/or MPU within a 90-day timeframe of said notice.
2. The City and Mt. SAC will “meet and confer” on the projects proposed under the 2018 Facilities Master Plan Update. The purpose is for Mt. SAC and the City to work together to review projects and discuss project implementation. This will include identifying projects that are definitively “school classroom facilities” and subject to the exemption under 53094 upon Board adoption of a resolution.
 3. Mt. SAC and the City will re-establish the quarterly committee (staff and elected representatives) meetings between Mt. SAC and the City to consult, meet and confer on current events, projects, etc. Additional informal consultations/notifications between the City and Mt. SAC staff will be made prior to formal notice and publicity of new projects, events, etc. to allow for improved coordination.
 4. Mt. SAC will consult with the City during the next FMP update. FMP will be prepared and approved as required by law.
 5. Mt SAC will meet and confer with the City to consider a Pedestrian Bridge over Temple Avenue at Temple and Bonita to connect the Transit Center to the Campus and a Pedestrian Bridge over Grand Avenue between Temple and San or Jose Hills connecting the commercial center to campus.

V. Community Representation:

- ~~1.~~ 4. Mt SAC shall increase the number of representatives on its statutorily required Bond Oversight Committee (for both its current Measure RR and intended new Measure intended to go before the voters in 2018) such that there shall be at least three (3) Walnut residents and one (1) United Walnut Taxpayer representative.

VI. Accountability:

1. This Memorandum of Agreement shall be memorialized in a full settlement and mutual release agreement that shall include a stipulated judgment to be filed in pending litigation. The written settlement agreement shall contain a provision for judicial enforcement pursuant to CCP 664.6 along with a clause for prevailing party attorneys’ fees.

VII. Fees and Costs:

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1. UWT current attorneys' fees and costs awards paid within 30 days of signed agreement.
2. Mt. SAC's obligation to pay attorneys' fees to the City arising out of the consolidated Solar Project lawsuit shall be determined by the City's pending motion. The parties reserve all rights with respect to such motion.

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The above terms are agreed to in principal by the below undersigned parties, and subject to approval of each entity's board of director/trustees.

The above terms shall also be set forth in a more formal form of a settlement agreement.

AGREED:

Date: _____

Sean Absher, Esq.
Counsel for Mt. Sac and President Scroggins

Date: _____

Craig Sherman, Esq.
Counsel for United Walnut Taxpayers

Date: _____

John McClendon, Esq.
Counsel for City of Walnut