

# MEMORANDUM OF AGREEMENT

## **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 parking structure shall maintain a setback of no less than 400 feet from the nearest single family residential property line and that Mt. SAC will "meet and confer" with the City to evaluate the potential impacts of the parking project on nearby residents.
3. Mt. SAC agrees it will consider the location of a parking project near the Mt. SAC Transit project. 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.
4. The City and Mt. SAC will equally share in the cost of completing the sidewalk north of Grand and San Jose. In the event the City elects not to participate in the cost of completing the sidewalk, Mt. SAC will have no obligation under this Section I.4.

## **II. West Parcel:**

1. Mt SAC will agree to remove the current Board approved Solar Project from the Master Plan and record a restrictive covenant against the West Parcel that prohibits use of the West Parcel to construct, build or install ground-mount solar panels or other stand-alone energy project with impacts similar to a ground-mount solar farm. Mt. SAC and the City agree that the restrictive covenant will have provisions for reasonable standards for any other stand-alone energy project or facility with exposed energy-generating components; provided, however, Mt. SAC may conform to applicable DSA code requirements as amended from time to time without City approval.
2. Any future proposed temporary or permanent use or project planned for development on the West Parcel Site shall be reviewed and processed by Mt. SAC in conformance with Section IV below and all applicable law.
3. The City agrees Mt. SAC may deposit approximately 140,000 cubic yards of dirt on the West Parcel Site in connection with the construction of the Stadium PEP project described in Section III below ("Earthwork") no earlier than September 2018 subject to (a), (b), and (c), below.
  - a) The West Parcel Earthwork and hauling operations shall be conducted in accordance with City reviewed and approved plans. The City agrees to process the grading plans, including proposed haul route and traffic

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control plans for the West Parcel Site and Stadium PEP project consistent with the applicable requirements of the Walnut Municipal Code Title II, Chapter 6. Notwithstanding the foregoing, the City agrees to submit the grading and hauling plans for the West Parcel directly to the City Council with the City Engineer's recommendation concurrent with the City Council's consideration of the complete and final settlement agreement. The complete and final settlement agreement will be conditioned on expiration of the time to appeal the City Council decision approving the grading plans for the Earthwork. Mt. SAC will continue to export the first 140,000 cubic yards of earth from the PEP project to sites in the cities of Chino and/or Ontario. Mt. SAC will submit a revised truck hauling plan.

- b) Mt. SAC will incorporate contouring and landscaping elements that create rolling pasture lands that are visually appealing and environmentally friendly. Renderings previously prepared and submitted by Mt. SAC show conceptually how Mt. SAC intends to contour and landscape the pad with swales, mounds, slopes, and trails to create rolling pasture lands. The contouring will result in elevation changes of  $\pm$  five feet to achieve the desired pasture-like effect.
  - c) Mt. SAC may build a temporary access road for the West Parcel Site as reasonably necessary for the Earthwork and a secured permanent access road as reasonably necessary for maintenance.
4. Mt. SAC does not intend at this time to undertake any additional CEQA review for the Earthwork and contouring/landscaping work on the West Parcel site.

## **III. Stadium (PEP) Project:**

- 1. The City agrees to not oppose the construction of the Stadium PEP. The City agrees the grading application submittals for the PEP is complete as of 5:00 pm April 7, 2018 and that the City will exercise its best efforts to complete the plan check review at the earliest possible time. Mt. SAC has paid applicable application fees and will remit payment for engineering fees promptly upon invoice from the City.
- 2. Mt. SAC will indemnify/reimburse the City for damage to City roads arising from earthmoving truck hauling through identified and adopted mitigation measures supporting the SEIR. City does not waive any claims for additional damages.
- 3. Mt. SAC will agree to formation of a Stadium task force to include City and Mt. SAC representatives to discuss partnering opportunities.
- 4. Mt. SAC will agree to process requests by the City to use the Stadium by applying the published policies and procedures for fees and schedules for municipalities located within its geographical boundary.

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## **IV. Future Projects:**

1. For commencement and/or implementation of either Master Plan projects or Master Plan Updates (MPU) and adoption of any Government Code section exemption (including but not limited to section 53091 and 53094), written notice to the City shall be given at the earliest time that Mt. SAC issues either its Request for Qualifications (RFQ) or Request for Proposals (RFP) for any architect or design or other consultant or contractor; but in no event later than 30-days prior to Mt. SAC's publication of the agenda for the items listed above.
2. The City and Mt. SAC will "meet and confer" on substantive planning and development projects that impact both parties. These matters include, but are not limited to: (i) Mt SAC projects proposed under the 2018 Facilities Master Plan Update and Facility Master Plan updates; (ii) future Mt. SAC projects; (iii) updates to the City's General Plan; (iv) City zoning changes affecting the Mt. SAC campus, and (v) City long range development plans. The purpose is for Mt. SAC and the City to work together to review planning and projects that affect both parties and to discuss planning and project implementation at the earliest stages. The "meet and confer" process will start with the City's City Manager or his/her designee, and Mt. SAC's President/CEO, or his/her designee, with reasonable follow-up by staff, as the City Manager and the President/CEO, or designee(s), may decide and subject to City Council and Board of Trustees approval.
3. The City agrees that Mt. SAC has its own MS4 permitting authority under a statewide permit. The City further agrees that its authority to review and approve grading plans for all future Mt. SAC exempt educational facilities will be administrative review and approval of grading/drainage plans by the City's Building Official upon the submission of the complete grading application and such review and approval will be pursuant to technical design and construction standards of on-site improvements which affect grading and drainage.
4. 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.

## **V. Miscellaneous:**

1. Mt. SAC and the City agree to issue a joint press release or announcement once this Memorandum of Agreement is approved by its respective governing bodies.

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2. Mt. SAC's Board of Trustees is considering placing on the November 2018 general election ballot a Proposition 39 bond measure. The City agrees it will not submit any "argument against" the bond measure for publication in the voter pamphlet.
3. 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.
4. Mt. SAC and the City will bear their attorneys' fees and costs with the exception Mt. SAC and the City agree the award of attorneys fees on appeal will be resolved by the appeal process.
5. The City will dismiss its pending lawsuits against Mt. SAC with both sides to bear their own fees and costs except as stated above in Section V.3. above.
6. The above terms are agreed to in principal and subject to approval of a formal and comprehensive written settlement agreement approved by the governing bodies of Mt. SAC and the City at a duly noticed meeting.

Date: April 12, 2018


  
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Dr. Manuel Baca,  
President, Mt. SAC Board of Trustees

Date: April 12, 2018

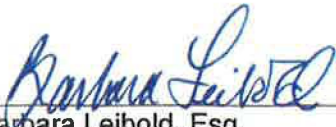
  
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Mary Su,  
Mayor, City of Walnut

APPROVED AS TO FORM:

Date: April 12, 2018

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

Date: April 12, 2018

  
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Barbara Leibold, Esq.  
Counsel for City of Walnut