

LEIBOLD McCLENDON & MANN

A PROFESSIONAL CORPORATION

9841 IRVINE CENTER DRIVE, SUITE 230
IRVINE, CALIFORNIA 92618
(949) 585-6300
FAX: (949) 585-6305

July 12, 2017

Board of Trustees
Mount San Antonio College
1100 North Grand Avenue
Walnut, CA 91789

Re: July 12, 2017 Meeting of the Board of Trustees:

Consent Item # 9 - Fundamental Commissioning Services for the Athletics Complex East Project – Ecotype Consulting

Action Item #2 – Award of the Athletics Complex East Project – Phase 2, Bid Packages 3103-3126

Dear Members of the Board of Trustees:

I am writing on behalf of the City of Walnut to object to the above-referenced Agenda Items scheduled for consideration at your meeting this evening. The City urges the Board to continue these items until the environmental review process for the ACE Project – which has been renamed by Mt. SAC as the Physical Education Project “PEP” Phase 1 - has been completed in accordance with the California Environmental Quality Act (Pub. Res. Code §§ 21000, *et seq.*), and the State of California Guidelines for the California Environmental Quality Act (“Guidelines”)(14 Cal. Code Regs. §§15000 *et seq.*) (“CEQA”).

As you know, the City has a pending CEQA action challenging the 2015 FMPU/PEP SEIR certified by the Board in October 2016. Subsequently, Mt. SAC prepared and circulated the Mt. San Antonio College District Physical Education Project (Phase 1, 2) Draft Subsequent Project EIR to 2015 Facilities Master Plan Update and Physical Education Projects Final Program/Project EIR to Final Program EIR (the “SEIR”). The City understood that the SEIR was an acknowledgement by Mt. SAC that the 2015 FMPU EIR was inadequate and evidenced Mt. SAC’s effort to comply with the Judgment and Writ of Mandate recently issued in connection with the proposed West Parcel Solar Project litigation in which Judge Chalfant determined that Mt. SAC’s pattern and practice of environmental clearance violated CEQA. With that understanding and in the spirit of cooperation, the City reviewed the SEIR and, on July 3, 2017, submitted a 52 page comment letter with attachments.

Given the status of the environmental review of the ACE Project (*aka* PEP Phase 1), Mt. SAC’s race to award in excess of \$58 million in contracts for the project is premature and further undermines the credibility and authenticity of the SEIR. Awarding the contracts – especially more than \$58 million in contracts – for a project that has not received final CEQA clearing

Board of Trustees
Mount San Antonio College
July 12, 2017
Page 2

and approval is a significant step that eliminates any genuine consideration of the potential environmental impacts or project alternatives. Instead, it makes Mt. SAC's CEQA process perfunctory at best and violates the fundamental purpose of CEQA: to evaluate potential environmental impacts prior to project approval and prior to committing to a definite course of action. Does Mt. SAC even intend on responding to the City's comments?

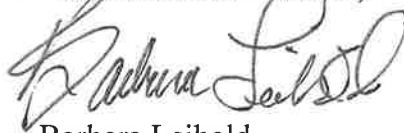
The Agenda for tonight's meeting does not include the proposed contracts to be awarded and it is not clear whether Mt. SAC has included CEQA compliance as a condition precedent to the effectiveness of those contracts. However, viewed in light of all the surrounding circumstances (including Mt. SAC's demolition of the Hilmer Lodge Stadium, announcement of the award of the 2020 Olympic Trials and Mt. SAC's unpermitted grading activity on the site), as a practical matter, the award of over \$58 million in project contracts demonstrates a current commitment by Mt. SAC to the PEP Phase 1 project. As such, the simple insertion of a CEQA compliance condition will not save the proposed agreements from being considered an approval requiring prior environmental review. (*See Save Tara v. City of West Hollywood (2008) 45 Cal.4th 116.*)

The City was hopeful that Mt. SAC's preparation and circulation of the SEIR was evidence of a sincere effort to comply with CEQA and a rejection of the past pattern and practice that Judge Chalfant vehemently dismissed. We are disappointed to be put in the position once again to object to Mt. SAC's proposed actions as violative of CEQA.

Unfortunately, I will be unable to attend your meeting this evening because I will be attending the Walnut City Council meeting which is regularly scheduled at the same. Therefore, on behalf of the City of Walnut and in light of the pending litigation and in a genuine effort to avoid additional litigation arising out of the proposed actions this evening, we urge the Board to postpone action on Consent Item # 9 and Action Item # 2 to allow for the completion of appropriate environmental review.

Very truly yours,

LEIBOLD McCLENDON & MANN, PC



By: Barbara Leibold

cc: Walnut City Council
Robert M. Wishner, City Manager
Tom Weiner, Community Development Director