

RESOLUTION NO. 2007-040

Adopted by the Sacramento City Council

January 23, 2007

APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SACRAMENTO AND SACRAMENTO LOCAL AGENCY FORMATION COMMISSION RELATING TO THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF SACRAMENTO'S APPLICATION FOR A SPHERE OF INFLUENCE AMENDMENT IN THE NATOMAS JOINT VISION AREA

BACKGROUND

- A. City and Sacramento County entered into a Memorandum of Understanding, hereinafter referred to as Joint Vision MOU, on December 10, 2002, agreeing to principles of urbanization, open space preservation and revenue sharing for unincorporated Natomas;
- B. The City Council adopted Resolution 2006-568, on the date of July 25, 2006, initiating an amendment to the City's Sphere of Influence.
- C. City desires to have a single EIR prepared for City's Project and to have LAFCo schedule the public hearing on the Sphere of Influence Boundary Amendment within sixty (60) days of receipt by LAFCo of the Final EIR.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1: The City Manager is authorized to execute the attached agreement with Sacramento LAFCo for joint preparation of and co-lead agency status for the Sphere of Influence EIR.

Table of Contents:

- Exhibit A: MOU – LAFCo/City Preparation of an EIR
- Exhibit B: Tentative City-County Natomas Joint Vision Schedule

Adopted by the City of Sacramento City Council on January 23, 2007 by the following vote:

Ayes: Councilmembers, Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters.

Noes: None.

Abstain: None.

Absent: Mayor Fargo.

Attest:


Shirley Concolino, City Clerk


Vice Mayor, Kevin McCarty

EXHIBIT A

MEMORANDUM OF UNDERSTANDING BETWEEN THE SACRAMENTO LOCAL AGENCY FORMATION COMMISSION AND THE CITY OF SACRAMENTO RELATING TO THE PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF SACRAMENTO'S APPLICATION FOR A SPHERE OF INFLUENCE AMENDMENT IN THE NATOMAS JOINT VISION AREA

This Memorandum of Understanding ("MOU") is made and entered into on _____ by and between the Sacramento Local Agency Formation Commission, a political subdivision of the State of California, hereinafter referred to as "LAFCo", and the City of Sacramento, a charter municipal corporation, hereinafter referred to as "City".

RECITALS

1. The City of Sacramento and the County of Sacramento entered into a Memorandum of Understanding Relating to the City-County Natomas Joint Vision (December 2002) (Joint Vision MOU) that addresses their mutual land use policies and economic interests in accommodating limited long-term development while securing permanent preservation of open space in the Natomas area.
2. The City Council adopted Resolution 2006-568, on the date of July 25, 2006, initiating an amendment to the City's Sphere of Influence.
3. The City of Sacramento's annexation policy is to assist property owners and residents within the City's adopted Sphere of Influence obtain adequate municipal services. In analyzing population data, the City has determined that it is necessary to amend its probable physical boundaries and service area in the Natomas Joint Vision area to accommodate projected future population growth. Therefore, the City has determined to initiate a General Plan Amendment, a General Plan Land Use Map Amendment, an Open Space Program (which includes agricultural preservation), and a Sphere of Influence Boundary Amendment (including a related Municipal Service Review), consistent with the principles and understandings contained in the Joint Vision MOU (the City's Project). Taken together these actions comprise a "project" within the meaning of and subject to the California Environmental Quality Act (Pub. Res. Code §21000 *et seq.*) (CEQA).
4. LAFCo is the appropriate Lead Agency for the proposed Sphere of Influence Boundary Amendment (Gov. Code § 56425 subd. (a); Pub. Res. Code § 21067; LAFCo Policies, IV.F.1, p. IV-7), and will require that the EIR adequately address the environmental issues associated with this portion of the City's Project. The

City is the appropriate Lead Agency for the remaining elements of the City's Project (General Plan Amendment, General Plan Land Use Plan Amendment, and Open Space Program) and will require the EIR to adequately address the environmental issues associated with these elements of the City's Project. (14 CCR §15051 subd. (b)(2); LAFCo Policies, §IV F.1.d... p. IV-7.)

5. It is well established in the law that a Lead Agency may comply with CEQA by adopting EIR materials provided by another person or public entity as long as the Lead Agency independently reviews, evaluates, and exercises its independent judgment over the documents and the issues they raise and address. (14 CCR §15084 subd. (d) and (e); *Friends of La Vina v. County of Los Angeles* (1991) 232 Cal App 3rd 1446 (disapproved on other grounds in *Western States Petroleum v Superior Court* (1991) 9 Cal.4th 559, 570 fn. 2, 576 fn. 6); *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal App4th 656).
6. The City desires to have a single EIR prepared for the City's Project. LAFCo has agreed to a single EIR and the City and LAFCo will cooperate in the preparation of the EIR as authorized by CEQA Guidelines, 14 CCR § 15051 subd. (d). (*Sierra Club v. West Side Irrigation Dist.* (2005) 128 Cal.App.4th 690, 700.) The County, in its role as a Responsible Agency, will also cooperate in the preparation of the EIR.
7. City and LAFCo enter into this Memorandum of Understanding to establish themselves as Co-Lead Agencies for the City's Project and to establish their respective roles and responsibilities relating to the oversight and management of the preparation of the EIR. The purpose of this Memorandum of Understanding is to ensure that the resulting EIR for City's Project adequately addresses the environmental issues of the City's Project as a whole and provides both LAFCo and the City with the information each needs to review, consider, and take action on the City's Project in full compliance with the law.

AGREEMENT

The Sacramento Local Agency Formation Commission and the City of Sacramento agree to the following:

1. Subject to LAFCo concurrence, City may select and contract directly with a consultant to prepare an EIR on City's Project.
2. City and LAFCo shall cooperate and work collaboratively to insure that the EIR fully satisfies LAFCo's requirements for conducting a legally adequate environmental review of the Sphere of Influence Boundary Amendment in accordance with CEQA, the CEQA Guidelines, the Cortese-Knox-Hertzberg Local Governmental Reorganization Act of 2000 (Gov. Code §56000 et seq.), and LAFCo's locally adopted guidelines. The parties agree to the following

protocols for preparation of the EIR:

- A. City, through its staff, shall be the primary contact point for the EIR consultant for purposes of generally directing the work of preparing the EIR and the Municipal Services Review; transmitting, receiving and disseminating reports, studies, drafts, and other documents related to the EIR and the Municipal Services Report; transmitting, receiving and responding to questions, comments, requests for clarification or additional information; scheduling meetings; preparing and conducting all public notices and mailings, and the like, including necessary related administrative oversight.
- B. LAFCo, through its Commission, staff, and independent consultants, shall have final oversight, review, and approval authority over the content of the administrative draft EIR (ADEIR), the draft EIR (DEIR), the final EIR (FEIR) and the Municipal Service Review as they each relate to the Sphere of Influence Boundary Amendment, and shall have Responsible Agency review over the Reorganization (Annexation and related detachments). City, through its staff, shall coordinate and work cooperatively and collaboratively with LAFCo to ensure that LAFCo has sufficient and meaningful opportunity to review, evaluate, and exercise its independent judgment over the content of the EIR as it relates to Sphere of Influence Boundary Amendment, Municipal Service Review and Reorganization (annexation and related detachments). To this end, LAFCo shall have the right to approve all studies, reports, drafts, and other documents prepared for or in connection with the EIR before public release, to edit or request changes to the ADEIR, DEIR, and FEIR and the Municipal Services Review, and request additional work as LAFCo, in the exercise of reasonable judgment and discretion, determines to be necessary to ensure the adequacy and objectivity of the EIR as needed for LAFCo's action as lead agency for the Sphere of Influence Boundary Amendment, Municipal Service Review and Reorganization (annexation and related detachments). At a minimum, City shall notify reasonably in advance (minimum of 72 hours) and give LAFCo the opportunity to attend all meetings with the EIR consultant and shall copy LAFCo of all correspondence between the City and its consultant, except those related solely to contract and billing issues.
- C. City and LAFCo shall each identify and notify the other of their respective staff contacts responsible for implementing this MOU.
- D. City and LAFCo staffs shall hold regular status meetings to discuss the progress of the work in conformance with the agreed schedule.
- E. LAFCo shall schedule and hold at least one public hearing during the DEIR comment period to address comments on and revisions to the DEIR.

3. City and LAFCo understand that City (with costs to be shared by the County, pursuant to a separate MOU with the County) shall be fully and solely responsible for the costs of City's consultant for preparation of the EIR on City's Project and the Municipal Service Review. City shall reimburse LAFCo for the costs incurred by LAFCo for retaining its independent environmental consultant as well as its normal processing fees including, but not limited to consultant fees, staff time, and legal review.
4. City and LAFCo agree to use all reasonable effort and due diligence to process the Project through to the final hearings in a timely fashion to meet City's objective of having LAFCo initiate the hearing on the Sphere of Influence Boundary Amendment within sixty (60) days of receipt by LAFCo of the FEIR. City and LAFCo agree to work cooperatively with each other to develop a Project schedule listing key steps and dates to aid in achieving City's objectives, which schedule shall be attached to and become a part of this MOU (Exhibit B).
5. City and LAFCo agree to the following sequence of actions to be taken to complete processing of City's Project:
 - A. Timely submittal of a LAFCo application for the Sphere of Influence Boundary Adjustment, and completion of FEIR and submittal to LAFCo.
 - B. LAFCo public hearing and exercise of discretionary action on certification of the FEIR, and acceptance of the Municipal Services Report.
 - C. If the Sphere of Influence Boundary Amendment is approved, a City public hearing and action on the General Plan Amendment, the General Plan Land Use Map Amendment, and the Open Space Program
 - D. If the City approves the items in subsection C above, a LAFCo hearing and action on the Sphere of Influence Boundary Amendment

Nothing stated in this MOU is intended, nor shall it be construed, to commit, control, or influence in any manner whatsoever the authority, judgment, or discretion of the LAFCo Commission or the City Council of City in their future hearings on all or any aspect of City's Project and the ultimate decision of each to approve, approve with conditions, or disapprove the Project, in whole or in part, or to require or impose mitigation measures as a result of the environmental review of the City's Project.

This Memorandum of Understanding is entered into as of _____.

SACRAMENTO LAFCo

CITY OF SACRAMENTO

By: _____
Executive Officer

By: _____
City Manager

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM

By: _____
LAFCo Counsel

By: _____
City Attorney

ATTEST

By: _____
City Clerk

Exhibit B

TENTATIVE CITY-COUNTY NATOMAS JOINT VISION SCHEDULE
(UPDATED 10/25/06)

<u>DATE</u>	<u>EVENT</u>	<u>AGENCY</u>
7/25/06 – 8/06	Direction/Workplan	City/County
10/06 – 11/06	Contract Approval/Initiation	City/County
12/06 – 1/07	1 st OSP Workshop	City/County
2/07 – 3/07	2 nd OSP Workshop (Preliminary alternatives)	City/County
5/07 – 6/07	3 rd OSP Workshop (Preferred alternative review)	City/County

6/07 – 7/07	Distribute NOP/GPA	City/County
8/06 – 9/07	Sphere of Influence Application	City/LAFCo
10/07 – 11/07	4 th OSP Workshop (Responses to 1 st Draft)	City/County
2/08 – 3/08	Publish DEIR/MSR	City/County/LAFCo
5/08 – 6/08	Publish FEIR/MSR	City/County/LAFCo
5/08 – 7/08	Open Space/GPA Hearings	City/County
10/08 – 11/08	SOI Hearings	LAFCo

Work Products (Agencies)

GPA – General Plan Amendments (City/County)

OSP – Open Space Program (City/County)

SOI/MSR – Sphere of Influence/Municipal Service Review (City/LAFCo)

NOP – Notice of Preparation (City/County/LAFCo)

DEIR/FEIR – Draft/Final Environmental Impact Report (City/County/LAFCo)