

RESOLUTION NO. 2005-803

Adopted by the Sacramento City Council

November 1, 2005

AUTHORIZING STAFF TO SIGN A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SACRAMENTO AND SACRAMENTO LOCAL AGENCY FORMATION COMMISSION (LAFCo) FOR PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT (EIR) FOR A SEQUENTIAL SPHERE OF INFLUENCE (SOI) AMENDMENT AND ANNEXATION OF THE PROJECT KNOWN AS GREENBRIAR (M05-046)

BACKGROUND

- A. On December 10, 2002, the Sacramento City Council and the Sacramento County Board of Supervisors approved the Memorandum of Understanding (MOU) regarding principles of land use and revenue sharing for the Natomas area. This has come to be known as the "Joint Vision for Natomas".
- B. The City-County MOU identifies the City of Sacramento as the appropriate agency for development within the Natomas Joint Vision Area.
- C. In May 2005, the City of Sacramento received a landowner application to process entitlements for a 577 acre site known as Greenbriar. The project site is located within the Natomas Joint Vision Area at the northwest intersection of State Route 99 and Interstate 5. It is consistent with the City's annexation policy to encourage owner initiated annexations which constitute fiscally sound additions to the existing City, ensure the provision of adequate municipal services, and are consistent with the City's General Plan and Community Plan land use policies and consistent with State law and LAFCo standards and criteria. The site is located outside the current City of Sacramento SOI.
- D. The applicant desires to have a single EIR prepared for the Greenbriar project. The applicant, City staff and LAFCo staff feel that this is a cost-effective approach and may result in time savings.
- E. On August 3, 2005, the Local Agency Formation Commission (LAFCo) authorized the LAFCo Executive Officer to sign a Memorandum of Understanding with the City of Sacramento setting forth the roles, responsibilities, terms and conditions for a collaborative co-lead agency status in the preparation of an Environmental Impact Report for the Greenbriar project.
- F. The terms and conditions are defined in the attached draft City-LAFCo MOU (Exhibit A) based upon the following proposed principles adopted by LAFCo at the August 3, 2005 commission meeting:

1. LAFCo and the City will cooperate in the scoping and drafting of the EIR.
2. LAFCo will retain the authority to certify the Draft EIR as to the SOI issues.
3. LAFCo will retain the authority to adopt independent mitigation measures and independently review the issue of SOI environmental impacts.
4. LAFCo and the City are not waiving any rights with respect to their lead agency status.
5. LAFCo will certify the EIR prior to certification by the City of Sacramento.

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

The City Council of the City of Sacramento hereby authorizes the City Manager to enter into a Memorandum of Understanding with Sacramento LAFCo for preparation of an Environmental Impact Report for a sequential Sphere of Influence amendment and annexation of the project known as Greenbriar consistent with the principles stated in section F, above.

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Exhibit A: Draft City-LAFCo Memorandum of Understanding

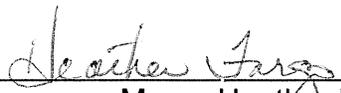
Adopted by the City of Sacramento City Council on November 1, 2005 by the following vote:

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

Noes: None

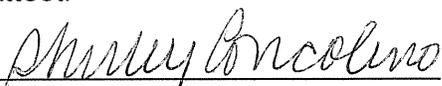
Abstain: None

Absent: None



Mayor Heather Fargo

Attest:



Shirley Concolino, City Clerk

CS draft 8/23/05Draft 08/19/05 (SDG)

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 Greenbriar Project and Establishment of Co-Lead Agencies for the
purpose thereto

Recitals

1. The City of Sacramento (City) has received an application for development of approximately 577 acres at the northwest quadrant of the intersection of State Route 99 and Interstate 5. The site is located in the unincorporated portion of Sacramento County and outside of the current City of Sacramento Sphere of Influence. The development application is comprised of a General Plan Amendment, Community Plan Amendment, Rezoning, Master Tentative Parcel Map, Tentative Subdivision Map, Planned Unit Development and Development Agreement. In addition, the proposed development requires the City to apply to the Sacramento Local Agency Formation Commission (LAFCo) for a Sphere of Influence Boundary Amendment (including a related Municipal Services Review) and Reorganization (annexation and related detachments). Taken together these applications comprise a "project" within the meaning of and subject to the California Environmental Quality Act (Pub. Res. Code §21000 *et seq.*) (CEQA) for which an environmental impact report will be prepared and which are referred to collectively in this Memorandum of Understanding as the Greenbriar Project.

2. 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 application. The City is the appropriate Lead Agency for the remaining elements of the proposed Greenbriar Project and will require the EIR to adequately address the environmental issues associated with applications related to all entitlements except the Sphere of Influence Boundary Amendment. (14 CCR §15051 subd. (b)(2); LAFCo Policies, §IV F.1.d... p. IV-7.)

3 The City desires to have a single EIR prepared for the Greenbriar project. LAFCo has agreed to a single EIR and the City and LAFCo will cooperate in the preparation of a single EIR as authorized by CEQA Guidelines, 14 CCR § 15051 subd. (d). (*Sierra Club v. West Side Irrig. Dist.* (2005) 128 Cal.App.4th 690, 700.)

4. It is well established in the law that a Lead Agency may comply with CEQA by adopting EIR materials provided by an applicant or an applicant's consultant 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).

5. City and LAFCo enter into this Memorandum of Understanding to establish themselves as Co-Lead Agencies for the Greenbriar Project and to establish their respective roles and responsibilities relating to the oversight and management of the preparation of a single EIR. The purpose of this Memorandum of Understanding is to ensure that the resulting Greenbriar Project EIR adequately addresses the environmental issues of the Greenbriar Project as a whole and provides both LAFCo and the City with the information each needs to review, consider, and take action on the Greenbriar Project applications in full compliance with the law.

Determinations

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

6. City may allow the Greenbriar Project applicant to select and contract directly with a consultant to prepare the EIR on the Greenbriar Project, which EIR shall include the environmental review of all of the following: the Sphere of Influence Boundary Amendment, General Plan amendment, Community Plan amendment, Rezoning, Master Tentative Parcel Map, Tentative Subdivision Map, Development Agreement, Reorganization (annexation and detachments), Planned Unit Development and Tentative Map approval.

7. 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 Policies, Standards and Procedures. 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 applicant's EIR consultant for purposes of generally directing the work of preparing the EIR; transmitting, receiving and disseminating reports, studies, drafts, and other documents related to the EIR; transmitting, receiving and

responding to questions, comments, requests for clarification or additional information; scheduling meetings; and the like.

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), and the final EIR (FEIR) 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 the Sphere of Influence Boundary Amendment and as a responsible agency over the 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 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 and as responsible agency for the Reorganization (annexation and related detachments).. At a minimum, City shall notify reasonably in advance (minimum 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(s), 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 receive comments on and proposed revisions to the DEIR.

8. City and LAFCo understand that the City shall be fully and solely responsible for the costs of its EIR consultant and 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.

9. 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 set for public hearing the SOIA prior to City Council consideration of related entitlements.. City and LAFCo agree to

work cooperatively with each other, and the project applicant and/or EIR consultants as necessary 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 Memorandum of Understanding.

11. City and LAFCo agree to the following sequence of actions to be taken to complete processing of the Greenbriar Project:

- A. Completion of FEIR and submittal to LAFCo
- B. LAFCo public hearing and exercise of discretionary action on certification of the FEIR and Sphere of Influence Boundary Amendment
- C. If the Sphere of Influence amendment is approved, a City public hearing and action on the General Plan Amendment, Community Plan Amendment, Prezone, Master Tentative Subdivision Map, Tentative Subdivision Map, Planned Unit Development and Development Agreement will follow.
- D. If the City approves the items in subsection C above, a LAFCo hearing and action on the Reorganization (annexation and related detachments) will follow.

Nothing contained in this Memorandum of Understanding 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 the Greenbriar Project and the ultimate decision of each to approve, approve with conditions, or disapprove the Greenbriar Project, in whole or in part, or to require or impose mitigation measures as a result of the environmental review of the Greenbriar Project.

This Memorandum of Understanding is entered into as of _____.

By _____
Peter Brundage, Executive Officer
Sacramento Local Agency
Formation Commission

By _____
Robert Thomas, City Manager
City of Sacramento