

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.4<sup>th</sup> 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 3<sup>rd</sup> 1446 (disapproved on other grounds in *Western States Petroleum v Superior Court* (1991) 9 Cal.4<sup>th</sup> 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 \_\_\_\_\_  
Robert Thomas, City Manager  
City of Sacramento

By \_\_\_\_\_  
Peter Brundage, Executive Officer  
Sacramento Local Agency  
Formation Commission

Approved as to form:

Approved as to form:

By \_\_\_\_\_  
City Attorney

By \_\_\_\_\_  
Sacramento LAFCo Counsel

**Greenbriar Project Schedule**

November 2, 2005	City of Sacramento submits application to Sacramento LAFCo and the Administrative Draft Environmental Impact Report is released
November 15, 2005	City, LAFCo and applicant comments are delivered to Environmental Impact Report preparer
December 5, 2005	Draft Environmental Impact Report is released and distributed
January 20, 2006	Draft Environmental Impact Report public comment period closes
February 13, 2006	Administrative Final Environmental Impact Report and Mitigation Monitoring Plan is released
February 16, 2006	City, LAFCo and applicant comments are delivered to Environmental Impact Report preparer
February 20, 2006	Final Environmental Impact Report and Mitigation Monitoring Plan is released and distributed
March 1, 2006	Sacramento LAFCo hearing on Sphere of Influence amendment, certification of the Final Environmental Impact Report and acceptance of the Municipal Services Review
March 9 or 23, 2006	City of Sacramento Planning Commission hearing on the Final Environmental Impact Report, General Plan Amendment, Community Plan Amendment, Pre-zone, Planned Unit Development Establishment, Tentative Master Parcel Map, Tentative Subdivision Map, Sphere of Influence Amendment, Annexation and any other necessary items as determined by staff
April 4 or 18, 2006	Sacramento City Council hearing on the Final Environmental Impact Report, General Plan Amendment, Community Plan Amendment, Pre-zone, Planned Unit Development Establishment, Sphere of Influence Amendment, Annexation and any other necessary items as determined by staff
May 3, 2006	Sacramento LAFCo hearing on the Annexation