

Terms of Settlement Agreement

Washoe County and the Sun Valley GID vs. Truckee Meadows Regional Planning Governing Board CV02-03469

A. BASELINE CRITERIA

1. **Spheres of Influence.** The Spheres of Influence (SOI) identified in the 2002 Regional Plan will be amended to reflect the boundaries agreed to by the City of Reno (hereinafter Reno) and the City of Sparks (hereinafter Sparks) post-May 9, 2002, as delineated in the September 2002 confidential settlement briefs of Reno and Sparks. *See Exhibit 1* to this settlement agreement (hereinafter agreement) is the map identifying the amended SOI.
2. **Cooperative Planning Areas within the 2002 Expanded Spheres of Influence.** The area added to the SOI's as they existed on May 8, 2002, and as amended by paragraph A1 of this agreement, will be referred to as the 2002 Expanded SOI's for the purposes of this agreement. The 2002 Expanded SOI will be master planned and zoned according to the Cooperative Planning process as defined in this agreement. These areas in total are henceforth referred to as Cooperative Planning Areas within the 2002 Expanded SOI's.
3. **Land Use and Zoning Designations.** Cooperative Planning Areas within the 2002 Expanded SOI's will be given the Washoe County (hereinafter County) master plan land use (which is concurrently the County's regulatory zoning) as translated to City land use and zoning. *See Exhibit 2.* In Cooperative Planning Areas within the 2002 Expanded SOI's the development standards that will be used for development projects are those from the respective city as modified by the attached table. *See Exhibit 3.* Reno will accept the Mt. Rose Highway scenic corridor standard as approved by the County. *See Exhibit 4.*
4. **Cooperative Planning Areas outside the 2002 Expanded Spheres of Influence.** Areas of interest are those areas beyond the 2002 Expanded SOI's where cities have an interest in specific aspects of County planning as further described in A6 and A7 of this agreement. *See Exhibit 5.* These areas of interest are henceforth referred to as Cooperative Planning Areas outside the 2002 Expanded SOI's. As provided for in *Exhibit 5*, the areas that Reno has expressed interest in are designated in yellow and aqua and the areas that Sparks has expressed interest in are designated in periwinkle and aqua.
5. **Cooperative Planning Areas outside the 2002 Expanded SOI's in which the City has Interest.** Cooperative Planning Areas outside the 2002 Expanded SOI's in which the City has Interest will maintain the existing County master plan land use and use existing County development standards. For ongoing Community

Management Plans that are largely outside the 2002 Sphere of Influence, the County master plan land use will be maintained until such time as Community Management Plans amend the County Comprehensive Plan and are found to be in conformance with the Regional Plan.

6. **Boundary Adjustments to Cooperative Planning Areas outside the 2002 Expanded SOI's.** Within 240 days of the execution of this agreement, the parties agree to further review and define the boundaries of the Cooperative Planning Areas outside the 2002 Expanded SOI's. The outcomes of this review are subject to the dispute resolution mechanisms outlined in Section A7.
7. **Notification and Dispute Resolution.** The County agrees to provide Reno and Sparks with reasonable notice of proposed planning decisions that address zoning changes, and changes to development standards, in the cooperative planning areas outside the 2002 Expanded SOI's. Moreover, Reno and Sparks will be able to provide review of, and meaningful input in regards to, infrastructure availability, timing and phasing; public service levels and fiscal impacts; and natural resource constraints. In the event that either Reno or Sparks is aggrieved by an administrative decision of the County in these matters, Reno or Sparks may file a petition to Department 9 of the Second Judicial District Court seeking a judicial review of the County's administrative decision. For disputes arising from County administrative decisions on planning matters in Cooperative Planning Areas outside the 2002 Expanded SOI's, Reno and Sparks are not required to file a petition with either the Regional Planning Commission or the Regional Planning Governing Board prior to seeking judicial review by Department 9 of the Second Judicial District Court.
8. **Amendment to land use, zoning and development standards in Cooperative Planning Areas.** All requests for amendment to the land use, zoning and development standards in Cooperative Planning Areas will be subject to the provisions in Section B of this agreement.
9. **Protocol Agreements.** *Exhibit 6 and 7* are draft protocol agreements that explain the procedures for processing specific plans, development agreements, approved discretionary permits, discretionary permit applications in the process of approval, master plan amendments, building permits, business licenses, code enforcement and reporting requirements to boards and commissions outside the city limits of Reno and Sparks. The parties agree to finalize the draft protocol agreements within 120 days of execution of this agreement and file a copy of the same with Department 9 of the Second Judicial District Court.
10. **City Programs of Annexation.**
 - (a) Reno and Sparks will adopt Programs of Annexation consistent with *NRS 268.625* including consideration of the following factors:
 1. Location of the property to be considered for annexation;
 2. The logical extension of City limits;

3. The need for the expansion to accommodate planned regional growth;
 4. The location of existing and planned water and sewer service;
 5. Community goals that would be met by any proposed annexation;
 6. The efficient and cost effective provision of service areas and capital facilities; and,
 7. Any other factors concerning any proposed annexation deemed appropriate for consideration by the governing body of the city.
- (b) Reno and Sparks shall not review and amend their Programs of Annexation more frequently than annually.
- (c) Reno and Sparks shall specify in their Programs of Annexation areas in their respective SOI's that are considered for annexation within the next 7 years and acknowledge that the areas considered for annexation in the 7 year program are less than the area designated as the 2002 Expanded SOI's.

11. Joint Planning.

- (a) Joint Plans shall be amended only by agreement of all parties thereto, and shall be reviewed 18 months after the initiation of cooperative planning, at which time the parties shall consider conversion of joint planning areas to cooperative plans, such action requiring unanimous agreement of the parties.
- (b) The County, Reno, and the Regional Planning Governing Board (hereinafter Board) agree to jointly seek a stay of the Bushey litigation (*Truckee Meadows Regional Planning Governing Board, etc., et al. v. County of Washoe et al.*, Supreme Court of Nevada, Supreme Court Case No 37947; District Court Case No. CV 01-00211) pending further mediation. The County, Reno and the Board will provide in the stipulation submitted to the Supreme Court requesting a stay that the parties' submission is based upon a request by the Honorable James Hardesty, District Court Judge, Second Judicial District Court.
- (c) The County, Reno, and the Board agree to participate in further mediation regarding parcels affected by the Bushey litigation, including but not limited to, Beckworth/McMullen et al. Bushey parcels include APN 552-250-02. The Beckworth/McMullen parcels include APN 552-111-01 and APN 552-111-02.

B. COOPERATIVE PLANNING PROCESS

1. Proposed amendments to Master Plans in Cooperative Planning Areas. All proposed amendments to master plan land use, zoning or development standards (see Section A3 of this agreement) in Cooperative Planning Areas within the 2002 Expanded Spheres of Influence will be initiated and reviewed with participation from each local government as follows (some time frames may run concurrently):

(a) Initiation of amendments by property owner(s).

Time Periods. Amendments submitted by property owner(s) to local government for area within their jurisdiction, i.e. City of Reno (and SOI), City of Sparks (and SOI), Washoe County

- 5 days a copy of the application will be provided to staff of other involved local government(s), and relevant Citizen Advisory Boards, Neighborhood Advisory Boards and/or the Sparks Citizen Advisory Committee;
- 15 days joint staffs hold a review meeting to identify concerns, issues, etc.
- 30 days Citizen Advisory Boards, Neighborhood Advisory Boards and the Sparks Citizen Advisory Committee and other involved local government planning commission(s) to provide comments;
- 45 days other involved local governing body(ies) comment
- 60 days hearing by local planning commission with jurisdiction
- 85 days hearing by local governing body with jurisdiction
- 115 days appeal hearing, if any, by Regional Planning Commission
- 145 days appeal hearing, if any, by Regional Planning Governing Board
- 175 days appeal hearing, if any, by District Court

i. Sanctions. Washoe, Reno, Sparks or the Board may seek judicial intervention to determine whether a non compliance of the timelines in Section B1(a) of this agreement is abusive in nature and warrants the imposition of sanctions by Department 9 of the Second Judicial District Court.

ii. Waiver. Property owner applicants may submit to their respective local jurisdiction a written waiver of the timelines in Section B1(a) of this agreement.

b. Initiation of amendments by Local Governments.

Initiation of amendments by local governments for areas within their jurisdiction, i.e. City of Reno (and SOI), City of Sparks (and SOI), Washoe County.

- 5 days a copy of the application will be provided to staff of other involved local government(s), and relevant Citizen Advisory Boards, Neighborhood Advisory Boards and/or the Sparks Citizen Advisory Committee;
- 30 days joint staffs hold a review meeting to identify concerns, issues, etc
- 45 days Citizen Advisory Boards, Neighborhood Advisory Boards and the Sparks Citizen Advisory Committee and other involved local government planning commission(s) to provide comments;
- 60 days other involved local governing body(ies) comments on issues
- Ongoing staff involvement/correspondence
- 120 days draft plan to staff of other involved local government(s)
- 140 days joint staffs hold a review meeting to identify concerns, issues, etc. on draft
- 155 days other involved local government planning commission(s) provide comments on draft
- 170 days other involved local governing body(ies) provide comments on draft

- 185 days hearing by local planning commission with jurisdiction
- 200 days hearing by local governing body with jurisdiction
- 230 days appeal hearing, if any, by Regional Planning Commission
- 260 days appeal hearing, if any, by Regional Planning Governing Board
- 290 days appeal hearing, if any, by District Court

i. Sanctions. Washoe, Reno, Sparks or the Board may seek judicial intervention to determine whether a non compliance of the timelines in B1(b) of this agreement is abusive in nature and warrant the imposition of sanctions by Department 9 of the Second Judicial District Court.

ii. Extension of Time. The time periods referenced in B1(b) may be modified provided all the local governments involved consent in writing.

C. COOPERATIVE PLANNING AREA AMENDMENT

- 1. Cooperative Planning Area amendment evaluation criteria.** The following criteria will be used to formulate cooperative plans as well as for evaluating proposed amendments to Cooperative Plans to determine whether the amendments conform to the comprehensive regional plan. The amendments will be further defined to be more specific. The initial criteria are as follows:
 - (a) Regional form and pattern, including open space
 - (b) Housing
 - (c) Jobs/housing balance
 - (d) Concurrency, timing, and phasing of infrastructure
 - (e) Public service levels and fiscal impacts
 - (f) Natural resource constraints not elsewhere addressed
 - (g) Interim water polices developed and recommended by the Regional Water Planning Commission under C2(a) of this agreement, and recommendations from the Commission's updated water plan
 - (h) Adjacency, edge matching and "feathering " standards shall be applied within the cooperative planning area as currently described in 110.212 Washoe County Development Code. *See Exhibit 8. Exhibit 8* will include both the Code and the Map referenced by the Code, which delineates which parcels are currently subject to this standard.

- 2. Additional Criteria and Refinement of Cooperative Planning Area Amendment Criteria.** Within 120 days following the execution of this agreement staff of Reno, Sparks, the County and the Board may refine and develop additional criteria for the amendment of cooperative planning areas. Staff will provide recommendations to the respective City and County Planning Commissions for review and recommendation to the respective City and County Commission for approval, including all applicable public processes. Local Governments will forward the recommendations to the Board and for filing with Department 9 of the Second Judicial District Court as an Exhibit to this

agreement. In the event that Reno, Sparks, or the County are aggrieved by a decision of Reno, Sparks or the County, the aggrieved party may initiate the dispute resolution process pursuant to the regulations referenced in Section E of this agreement. The topics to be considered by the staff for refinement shall include, but are not limited to:

- (a) **Water.** Reno, Sparks and the County shall jointly request that the Regional Water Management Planning Commission formulate interim criteria policies to be provided within 120 days from execution of this agreement.
 - (b) **Further application of adjacency, edge matching and “feathering” standards.** Within 120 day time period, delineated in C2 of this agreement, staff from Reno, Sparks, the County and the Board will further determine the application of adjacency, edge matching and “feathering” standards more broadly within the cooperative planning areas.
 - (c) **Convenience commercial uses in the *Golden Valley* area.** Within 120 day time period, delineated in C2 of this agreement, staff from Reno, the County and the Board will evaluate whether convenience commercial uses in the *Golden Valley* area should be located within 1500 feet of a high school property line, unless such services are coincident with an existing neighborhood or community serving center designated in a city or county master plan found to conform to the regional plan.
 - (d) **Development standards for Cooperative Planning Areas.** Within 120 day time period, delineated in C2 of this agreement, staff from Reno, Sparks, the County and the Board will consider the inclusion of the list of development standards for cooperative planning areas listed in *Exhibit 3*. These development standards may include, but are not limited to, open space buffer zoning and deed restrictions, noise management, view protection and hillside development,
3. **Extension of Time.** Staff of Reno, Sparks, the County, and the Board will prioritize the topics for the refinement and development of criteria for cooperative planning areas within the 120 day time period as referenced in Section C2 of this agreement. In the event that either staff of Reno, Sparks, the County, or the Board determine that the 120 day time period is inadequate to address the topics for the refinement and development of criteria for cooperative planning areas, then Reno, Sparks or Washoe may petition Department 9 of the Second Judicial District Court and show good cause why the 120 time period should be extended.

D. COMPREHENSIVE REGIONAL PLAN AMENDMENTS

1. **Comprehensive Regional Plan Amendments.** The Regional Planning Commission and the Regional Planning Governing Board will adopt amendments to the comprehensive regional plan consistent with this agreement. The regional plan amendments will be subject to the public process as contemplated within Chapter 278 of the *Nevada Revised Statutes*. In the event that Reno, Sparks or the

County is aggrieved in by an administrative decision of the Board in amending the comprehensive regional plan, the aggrieved party may petition Department 9 of the Second Judicial District Court pursuant to the dispute resolution regulations referenced in Section E in this agreement.

2. **Comprehensive Regional Plan Amendments regarding Natural Resource Constraints.** The Regional Planning Commission and the Regional Planning Governing Board will amend the comprehensive regional plan to clearly delineate that the comprehensive regional plan is natural resource constrained.
3. **Comprehensive Regional Plan Amendments regarding Existing Zoning outside the Truckee Meadows Service Areas.** The Regional Planning Commission and the Regional Planning Governing Board will amend the comprehensive regional plan to allow local governments to recognize existing zoning outside the TMSA to allow development and division of land in accordance with that zoning.
4. **Comprehensive Regional Plan Amendments regarding the Sun Valley hydrographic basin.** The Regional Planning Commission and the Regional Planning Governing Board will amend the comprehensive regional plan to rollback the Reno and Sparks Sphere of Influence to match the ridgeline of the Sun Valley hydrographic basin. Further, the Regional Planning Commission and the Regional Planning Governing Board will amend the TMSA within the comprehensive regional plan to include all property within the Sun Valley GID hydrographic basin including the currently annexed land of Asquaga/Pappas. *See Exhibit 9.*
5. **Comprehensive Regional Plan Amendments regarding future amendments to the Comprehensive Regional Plan and Conformance Review.** Within 120 days from the execution of this agreement, the Regional Planning Commission and the Regional Planning Governing Board will amend the comprehensive regional plan to include policies that provide that future amendments to the comprehensive regional plan pursuant to NRS 278.0272 and the conformance review process pursuant to NRS 278.028 and NRS 278.0282 shall consider the following additional criteria:
 - (a) Regional form and pattern, including open space
 - (b) Housing
 - (c) Jobs/housing balance
 - (d) Availability, timing, and phasing of infrastructure
 - (e) Public service levels and fiscal impacts
6. **Extension of Time.** In the event that either staff of Reno, Sparks, the County, or the Board determine that the 120 day time period in Section D5 is insufficient to amend the comprehensive regional plan to include the necessary policies, then Reno, Sparks, the County or the Board may petition Department 9 of the Second

Judicial District Court and show good cause why the 120 time period should be extended.

E. DISPUTE RESOLUTION

1. *Exhibit 10* to this agreement is a draft of regulations that will govern the dispute resolution process for cooperative planning contemplated in this agreement. The regulations will be adopted by the Regional Planning Governing Board pursuant to NRS 278.0265 (1). The regulations will provide the dispute resolution process for all cooperative planning disputes except as otherwise provided for in this agreement.

F. LEGISLATION

Reno, Sparks, the County, the Board and the Sun Valley General Improvement District (hereafter SVGID) shall not propose legislation that is either inconsistent or contrary to the terms of this settlement agreement. In the event that Reno, Sparks, the County and the Board jointly believe that legislation should be proposed to support or further this agreement, the parties will jointly submit and support the legislation. Reno, Sparks, the County and the Board agree that all other legislative items will be addressed pursuant to *NRS 278.0276 (2)* and the 2001 Memorandum of Understanding on legislative issues, as amended.

G. NRS 268.670 ANNEXATION

1. **Annexation Criteria.** Reno and Sparks will establish and adopt criteria which will delineate the criteria by which the cities will exercise its discretion in processing and approving annexation applications pursuant to *NRS 268.670*. The criteria will include the following:
 - (a) Location of the property to be considered for annexation;
 - (b) The logical extension of City limits;
 - (c) The need for the expansion to accommodate planned regional growth;
 - (d) The location of existing and planned water and sewer service;
 - (e) Community goals that would be met by any proposed annexation;
 - (f) The efficient and cost effective provision of service areas and capital facilities;
 - (g) Fiscal analysis regarding the proposed annexation;
 - (h) Whether the county has adopted a Community Management Plan for the proposed annexation area;
 - (i) Whether the annexation creates islands; and,
 - (j) Any other factors concerning any proposed annexation deemed appropriate for consideration by the governing body of the city;

- 2. **Notification Requirement.** Reno and Sparks agree to provide reasonable notice to the County and all property owners within 750 feet of the property to be annexed so that the County and the property owners may participate in the local government review process for the proposed annexation as described in Section H of this agreement.
- 3. **Adoption of Local Government Ordinance or Regulation.** Before approving any annexations pursuant to NRS 268.670 Reno and Sparks will adopt an ordinance or regulation codifying the criteria described in Section G1.
- 4. **Property annexed pursuant to NRS 268.670.** Property annexed pursuant to NRS 268.670 within or without the 2002 Expanded Spheres of Influence shall be subject to Sections B & C of this agreement.

H. OTHER TERMS

- 1. **Tolling.** Conformance review deadlines pursuant to *NRS 278.028* are tolled for the period from May 9, 2002, until the settlement agreement is approved by all parties.
- 2. **Review of Settlement Agreement.** The settlement agreement may be amended by mutual agreement of the parties, subject to supervision of the District Court, and will be reviewed before adoption of the next 5 year update of the Truckee Meadows Regional Plan.
- 3. **Pending Applications.** Applications pending will be processed under the existing statutes, ordinances and regulations in place as of the date that the application is filed with the respective local government or regional entity.

DATED this 17th day of October, 2002.

RICHARD A. GAMMICK
District Attorney

TRUCKEE MEADOWS REGIONAL
PLANNING AGENCY

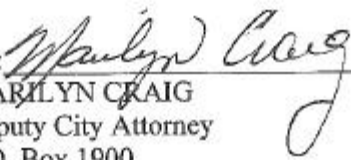
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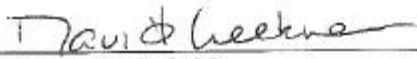
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LIST OF EXHIBITS

- 1 Map – Amended Spheres of Influence
- 2 Land Use Translation Table
- 3 Initial Criteria for areas within extended SOI's (U Pic'm Standards)
- 4 Mt. Rose Highway Scenic Corridors Standards
- 5 Map of Cooperative Planning Areas – outside expanded SOI's
- 6 Reno Protocol Agreement
- 7 Sparks Protocol Agreement
- 8 South East Truckee Meadows – development standards
- 9 Sun Valley General Improvement District hydrographic basin
- 10 Draft Regulations – Dispute Resolution for Cooperative Planning