

**MEMORANDUM OF UNDERSTANDING  
BY AND BETWEEN  
the  
TOWN OF MARANA  
and  
PIMA COUNTY**

TO ESTABLISH A PROGRAM FOR COOPERATIVE CONSERVATION PLANNING IN THE TOWN OF MARANA AND PIMA COUNTY.

This Memorandum of Understanding ("Memorandum") is made and entered into this 3<sup>rd</sup> day of September, 2002, by and between the Town of Marana and Pima County (collectively, "Public Agencies").

WITNESSETH:

WHEREAS, page H6527 of the October 11, 2001 Congressional Record states that funds are allocated to Pima County for the regional multi-species habitat conservation planning effort developed in cooperation with agencies including the Town of Marana through a cooperative agreement that is based on the United States Fish and Wildlife Service's Habitat Conservation Planning Handbook sample Memorandum of Understanding, and this Agreement is so modeled, and

WHEREAS, the Public Agencies are among the local agencies that have regulatory authority or responsibility under certain statutes, and

WHEREAS, the multiple sources of authority under which the Public Agencies operate do not provide any individual agency with the authority to implement a comprehensive program, enlisting the efforts of all levels of government, to provide for the regulatory management of habitat related to threatened and/or listed endangered species in Pima County, and

WHEREAS, because of the overlap and concurrent jurisdiction of federal and Public Agencies, the private sector lacks assurances that compliance with requirements imposed by any one Public Agency will be timely and will satisfy requirements that may be imposed by any other agency, and

WHEREAS, the Public Agencies desire that their respective concerns and responsibilities with regard to threatened and/or listed endangered species be integrated and coordinated in such a manner as to ensure effective, timely, and mutually beneficial resolution of such issues within Pima County, and

WHEREAS, the Town Manager and County Administrator will participate as members of the Marana Habitat Conservation Plan Steering Committee, for the purpose of developing a program to ensure appropriate regulatory management of habitat related to threatened and/or listed endangered species in the Town of Marana, and

WHEREAS, the Marana Habitat Conservation Plan Steering Committee will coordinate with and utilize baseline data developed from Pima County's Sonoran Desert Conservation Plan as a starting point to develop an ecologically based, landscape-scale sub regional plan, and

WHEREAS, the Town of Marana has taken the steps necessary to begin community planning, including inviting participants to establish a Steering Committee, gathering Geographic Information System data from County staff, inviting Pima County to join the Marana Steering Committee, working with groups and stakeholders to pre-plan, and seeking funding for planning by submitting a grant proposal, and

WHEREAS, Pima County will provide technical assistance to the Marana Habitat Conservation Plan Steering Committee along with available geographic information service based data and research published in the study series of the Sonoran Desert Conservation Plan, and

WHEREAS, if the 2002 federal grant application for planning funds submitted by Marana is unsuccessful, and if \$850,000 in funding designated in the 2001 federal budget is made available to Pima County for the regional multi-species habitat conservation planning effort, \$250,000 of that amount will be transferred under separate Agreement to the Town of Marana for the development of the Marana Habitat Conservation Plan with the remaining funds used by Pima County to finalize its Section 10 permit and carry out economic analysis, and

WHEREAS, Marana and Pima County acknowledge that the remaining \$600,000 will be utilized to complete the Sonoran Desert Conservation Plan, including funding of economic analysis, and

WHEREAS, the Public Agencies are desirous that their local land use regulations and development decisions comply with State and Federal environmental and endangered species statutes and regulations, and, along with local industry, that planning provides for continued economic growth and development and ensures a healthy economic environment for its citizens and industries,

THEREFORE, it is mutually agreed and understood that:

#### 1.0 PURPOSE OF MEMORANDUM

The Public Agencies have entered into this Memorandum to define relationships and agencies with permit or regulatory authority over habitat related to threatened and/or listed endangered species and to develop a cooperative program which will ensure that the activities of private parties will comply with applicable laws and regulations concerning the habitat related to threatened and/or listed endangered species in Pima County, and which will provide long-term protection of such species.

## 2.0 PURPOSES OF THE AGREEMENT

The purposes of the Agreement are as follows:

2.1 Protection of Threatened and/or Listed Endangered Species. To conserve and protect threatened and/or listed endangered species and their habitats within the Town of Marana and Pima County to the extent each jurisdiction seeks permit coverage for such species. Each jurisdiction will decide as part of their Section 10 proposal which species in addition to the threatened and/or listed endangered species will be included as part of the jurisdiction's permit.

2.2 Assurances to Private Sector. To provide a means to standardize and integrate mitigation/compensation measures for the threatened and/or listed endangered species so that public and private development actions together with mitigation/compensation measures established by the Program for such actions will satisfy concurrently without duplication or unnecessary delay applicable provisions of Federal and State laws and applicable local ordinances and regulations.

2.3 Cumulative Effects. To specify mitigation measures needed to lessen or avoid the cumulative effects of development activities on threatened and/or listed endangered species and eliminate, where possible, the requirement of case-by-case review of all such effects that will be mitigated by the specific measures.

The foregoing shall be accomplished through certain procedural components of the Program, as described below, including, but not limited to, (a) a Marana Habitat Conservation Plan to be adopted by the Marana Town Council that addresses the conservation of threatened and/or listed endangered species in the Town of Marana, (b) a Multi-Species Habitat Conservation Plan as an aspect of the Sonoran Desert Conservation Plan to be adopted by the Board of Supervisors of Pima County that addresses the conservation in unincorporated Pima County, (c) an implementing agreement to ensure execution of the conservation plans, and (d) Section 10(a) permits pursuant to the ESA to authorize incidental taking of federally listed species.

2.4 Equitable Distribution of Mitigation/Compensation Obligations. To ensure that the costs of mitigation/compensation measures apply equitably to all agencies and private sector groups conducting activities affecting threatened and/or listed endangered species.

## 3.0 COMPONENTS OF THE PROGRAM

The program will include the following components:

3.1 Endangered Species Element: The Endangered Species Element will establish goals, policies, and implementation programs for addressing issues affecting threatened and/or listed endangered species and their habitats. The Element will provide a comprehensive policy framework that links species conservation programs with local land use planning to ensure coordinated, effective, and timely resolution of conflicts between development and the conservation of threatened and/or listed endangered species.

3.1.1 The Element will provide broad based policy, foundation, and direction for the preparation of conservation plans and other related programs in the County. The Sonoran Desert Conservation Plan will be broader in scope and more comprehensive than the area-specific conservation plans.

3.1.2 The Marana Habitat Conservation Plan Steering Committee will coordinate with and utilize baseline data developed from Pima County's Sonoran Desert Conservation Plan as a starting point to develop an ecologically based, landscape-scale sub regional plan.

3.1.3 Pima County will provide the Marana Habitat Conservation Plan Steering Committee available geographic information service based data and research published in the study series of the Sonoran Desert Conservation Plan along with technical assistance.

3.1.4 If the 2002 federal grant application for planning funds submitted by Marana is unsuccessful, and if \$850,000 in funding designated in the 2001 federal budget is made available to Pima County for the regional multi-species habitat conservation planning effort, \$250,000 of that amount will be transferred under separate Agreement to the Town of Marana for the development of the Marana Habitat Conservation Plan with the remaining funds used by Pima County to finalize its Section 10 permit and carry out economic analysis.

3.1.5 The Element will address the full range of land use issues, including urban, mineral and agricultural development. The State requirement for consistency between general plan elements will afford the opportunity to conform land use planning programs, including the land use and environmental elements of the general plan, with the Element, and to provide for the necessary linkage with local permit, zoning, and subdivision ordinances. Marana and Pima County will cooperate and coordinate planning efforts to achieve consistency in planning designations so uses are compatible along the jurisdictions boundaries.

3.2 Conservation Plan: A Section 10(a) conservation plan will be prepared by each Public Agency for those threatened and/or listed endangered species which each jurisdiction would like covered under the permit. Section 10(a) permits will authorize the Public Agencies and private parties operating under the authority of the permit, to carry out activities that result in the incidental take of threatened and/or listed endangered species.

3.2.1 It is the intent of the parties to eliminate project-by-project review of the effect of development activities on the threatened and/or listed endangered species to the full extent authorized by law, and to ensure that federal mitigation/compensation measures are not imposed beyond those detailed in the conservation plan(s) for such development activities provided conditions under which the conservation plan was formulated have not significantly changed. Such a conservation plan will satisfy the participating Federal agencies with respect to the protection of the threatened and/or listed endangered species by, among other possible mechanisms, providing uniform and biologically viable mitigation/compensation measures for application to development activities. Such mitigation measures will be developed subject to the approval of participating Federal agencies.

3.2.2 Individual landowners, groups of landowners, or development interests may choose to comply with the terms and conditions of an applicable and approved conservation plan affecting their proposed activities. Alternately, they may choose to prepare and submit their own conservation plan and Section 10(a) permit application when their activities may result in incidental take of federally listed species and, if State or local agency approval is required, they may choose to submit their proposal outside the existing conservation plan umbrella.

3.3 Implementing Agreement. The Marana Habitat Conservation Plan and the Sonoran Desert Conservation Plan shall be implemented through enforceable agreements. The agreements shall specify the operating parameters of the conservation plans. The agreements specify the obligations, authorities, responsibilities, liabilities, benefits, rights, and privileges of all parties or signatories to the subject conservation plans to be prepared and submitted with the Section 10(a) permit application. The agreements will provide specific mitigation commitments for private parties and Public Agencies conducting development activities, and assurances by the Public Agencies to prevent the imposition of inconsistent or overlapping mitigation/compensation requirements under any Federal, State, or local law.

#### 4.0 STEERING COMMITTEE

The Town Manager and County Administrator will participate as members of the Marana Habitat Conservation Plan Steering Committee, for the purpose of developing a program to conserve threatened and/or listed endangered species in the Town of Marana. The Town of Marana will participate in the meetings of government partners for the Sonoran Desert Conservation Plan.

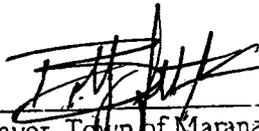
#### 5.0 PUBLIC INVOLVEMENT

It is the intent of the parties to this agreement that the public will be afforded sufficient opportunity to provide input, not only during the required NEPA review process, but during the scoping and planning process, as well.

#### 6.0 TERM

This Memorandum of Understanding is effective from the date of signature until a Party to the Agreement withdraws from participation and memorializes that intent to withdraw in writing.

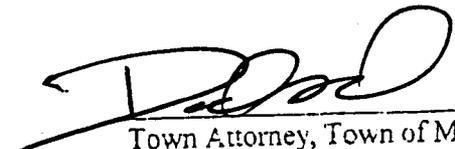
IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Memorandum, on the date(s) set forth below, as of the day and year first above written.

By   
\_\_\_\_\_  
Mayor, Town of Marana

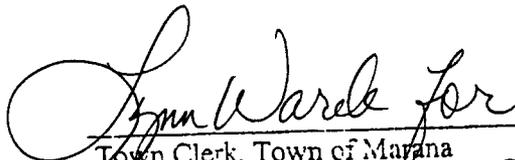
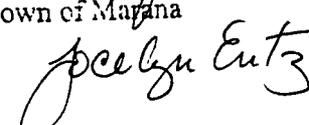
By   
\_\_\_\_\_  
Chair, Pima County Board of Supervisors  
AUG 19 2002

  
\_\_\_\_\_  
Town Manager, Town of Marana

  
\_\_\_\_\_  
County Administrator, Pima County

  
\_\_\_\_\_  
Town Attorney, Town of Marana

  
\_\_\_\_\_  
County Attorney, Pima County

  
\_\_\_\_\_  
Town Clerk, Town of Marana  


  
\_\_\_\_\_  
Clerk of the Board, Pima County  
AUG 19 2002



CERTIFIED

Original \_\_\_\_\_ Copy

Adopted by Council September 3, 2002

Ordinance # \_\_\_\_\_ Resolution # 2002-99

Town Clerk L. M. Warden for Date 09/03/02

## MARANA RESOLUTION NO. 2002-99

A RESOLUTION OF THE TOWN OF MARANA, ARIZONA, APPROVING A MEMORANDUM OF UNDERSTANDING WITH PIMA COUNTY FOR THE PURPOSE OF ESTABLISHING A PROGRAM FOR COOPERATIVE CONSERVATION PLANNING IN THE TOWN OF MARANA AND PIMA COUNTY.

WHEREAS, the Town of Marana and Pima County are among the public agencies in Pima County that have regulatory authority or responsibility for habitat conservation planning under certain statutes; and

WHEREAS, the Mayor and Council of the Town of Marana have determined that the multiple sources of authority under which the Town, Pima County and other public agencies operate do not provide any individual agency with the authority to implement a comprehensive program, enlisting the efforts of all levels of government, to provide for the regulatory management of habitat related to threatened and/or listed endangered species in Pima County; and

WHEREAS, the Mayor and Council have determined that, because of the overlap and concurrent jurisdiction of federal, state and local authorities, the private sector lacks assurances that compliance with requirements imposed by any one public agency will be timely and will satisfy requirements that may be imposed by another agency; and

WHEREAS, the Mayor and Council have determined that the Town's and Pima County's respective concerns and responsibilities with regard to threatened and/or listed endangered species should be integrated and coordinated in such a manner as to ensure effective, timely and mutually beneficial resolution of such issues; and

WHEREAS, the Mayor and Council have determined that the Town and Pima County should establish a committee for the purpose of developing a program to ensure appropriate regulatory management of habitat related to threatened and/or listed endangered species in the Town; and

WHEREAS, the Mayor and Council have determined that approval of the Memorandum of Understanding by and between the Town of Marana and Pima County, attached hereto as Exhibit A and incorporated herein by this reference, will achieve all of the aforementioned goals; and

WHEREAS, the Mayor and Council have determined that approval of the Memorandum of Understanding is in the best interest of the Town and its residents.

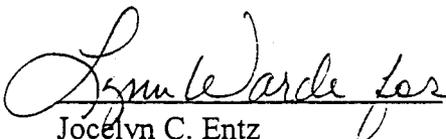
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Marana, Arizona, as follows:

- Section 1.** The Town is hereby authorized to enter into the Memorandum of Understanding by and between the Town of Marana and Pima County, attached hereto as Exhibit A and incorporated herein by this reference.
- Section 2.** The Mayor of the Town of Marana is hereby authorized to execute said memorandum of understanding.
- Section 3.** The Town staff is hereby authorized to take all steps necessary to implement said memorandum of understanding and give it effect.
- Section 4.** That all orders or resolutions in conflict with this resolution be and the same are, to the extent of such conflict, hereby repealed, and that this resolution be in full force and effect immediately upon its adoption.

PASSED AND ADOPTED by the Mayor and Council of the Town of Marana, Arizona, this 3rd day of September, 2002.

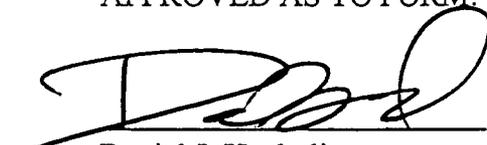
  
\_\_\_\_\_  
Mayor BOBBY SUTTON, JR.

ATTEST:

  
\_\_\_\_\_  
Jocelyn C. Entz  
Town Clerk



APPROVED AS TO FORM:

  
\_\_\_\_\_  
Daniel J. Hochuli  
As Town Attorney

and not personally

Exhibit A

Memorandum of Understanding by and between the Town of Marana and Pima County