

ADOPTED BY THE
MAYOR AND COUNCIL

NOV 25 2002

RESOLUTION NO. 19435

RELATING TO A MEMORANDUM OF UNDERSTANDING; AUTHORIZING AND APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TUCSON AND PIMA COUNTY FOR CONSERVATION PLANNING; AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. The Memorandum of Understanding with Pima County, attached as Exhibit "A," is hereby authorized and approved.

SECTION 2. The Mayor is hereby authorized and directed to execute the Memorandum of Understanding attached as Exhibit A for and on behalf of the City of Tucson and the City Clerk is authorized and directed to attest the same.

SECTION 3. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this resolution.

SECTION 4. WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this resolution become

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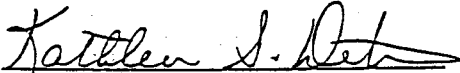
immediately effective, an emergency is hereby declared to exist, and this resolution shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, this 25th day of November, 2002.



MAYOR

ATTEST:




CITY CLERK

APPROVED AS TO FORM:




CITY ATTORNEY

REVIEWED BY:



CITY MANAGER

 CA/csv
11/18/2002 10:04 AM

**MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
the
CITY OF TUCSON
and
PIMA COUNTY**

**TO ESTABLISH A PROGRAM FOR COOPERATIVE CONSERVATION PLANNING IN
THE CITY OF TUCSON AND PIMA COUNTY.**

This Memorandum of Understanding ("Memorandum") is made and entered into this 25th day of November, 2002, by and between the City of Tucson 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 City of Tucson 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 City of Tucson has specific plans to annex certain lands in unincorporated Pima County and will become the regulatory authority for those lands, 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 effectively, timely, and mutually beneficial resolution of such issues within Pima County, and

WHEREAS, the City of Tucson has taken steps necessary to begin conservation planning, and

WHEREAS, Pima County will provide technical assistance to the City of Tucson along with available geographic information service based data and research published in the study series of the Sonoran Desert Conservation Plan, 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 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 City of Tucson 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 action's 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 City of Tucson Habitat Conservation Plan to be adopted by the City Council that addresses the conservation of threatened and/or listed

endangered species in the City of Tucson and Tucson-owned lands, (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 City of Tucson 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 City of Tucson all available geographic information service-based data, and other data, and research, and reports published in the study series of the Sonoran Desert Conservation Plan in all available formats, electronic and paper, and all raw data which is available but has not yet been published, within one week of request by the City at no cost to the City, along with technical assistance. Pima County will designate a County employee with the responsibility for responding to information requests from the City of Tucson. The City of Tucson will provide Pima County all available geographic information service-based data, and other data, and research and reports related to City conservation planning in all available formats, electronic and paper, and all raw data which is available but has not yet been published, within one week of request by the County, at no cost to the County, along with technical assistance. The City of Tucson will designate a City employee with the responsibility for responding to County information requests.

3.1.4 Pima County will support the City of Tucson's efforts to obtain separate grant funding from the United States Fish and Wildlife Service to fund the City's Endangered Species Act compliance efforts, including funding to implement the City's Section 10 permit. The City of Tucson will support Pima County's efforts to obtain separate grant funding from the United States Fish and Wildlife Service to fund the County's Endangered Species Act Compliance efforts specifically related to the implementation of the County's Section 10 permit.

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. The City of Tucson 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. The conservation plan developed by the City of Tucson will include all lands within the existing boundaries of the City of Tucson and all land owned by the City of Tucson, whether inside or outside the existing City boundaries. For specific lands reasonably expected to be annexed by the City of Tucson in the near future the County will consult with the City before developing elements of the conservation plan for those lands in recognition of the City's future regulatory authority and to ensure consistency with the City's conservation plan: to include those areas adjacent to the City of Tucson, excluding National Forest lands and other developed areas where annexation is not desirable; bounded on the east by a north-south line lying approximately four and one-half (4.5) miles east of the Houghton Road alignment; on the south by a line equivalent to the north boundary of the Coronado National Forest; and on the west by the Wilmot Road alignment.

The County conservation plan will include all private lands within existing unincorporated Pima County and all land owned by Pima County, whether inside or outside the existing unincorporated area. For City lands lying in the unincorporated area, the City will consult with the County before developing elements of the conservation plan for those lands.

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 provide conditions

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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 City of Tucson 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 applications. 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 COMMITTEES

The City and County will participate in Steering Committee activities of each jurisdiction.

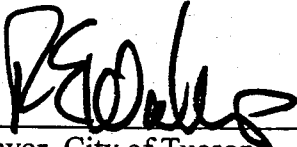
5.0 PUBLIC INVOLVEMENT

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

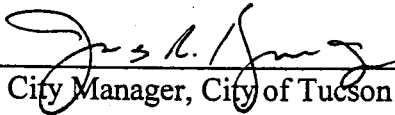
This Memorandum of Understanding is effective from the date of signature until a Party to the Agreement withdraws from participation and memorializes that intent to withdraw in writing.

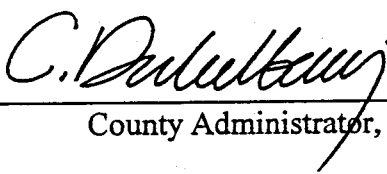
IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Memorandum,
on the date(s) set forth below, as of the day and year first above written.

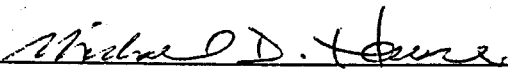
By 
Mayor, City of Tucson

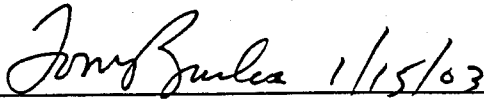
By 
Chair, Pima County Board of Supervisors

JAN 14 2003

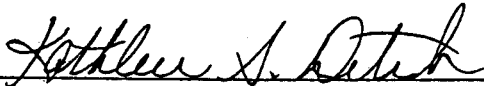

City Manager, City of Tucson

 1-7-03
County Administrator, Pima County

 1-7-03
City Attorney, City of Tucson

 1/15/03
County Attorney, Pima County

ATTEST:


City Clerk, City of Tucson


Clerk of the Board, Pima County

JAN 14 2003