

APPENDIX K  
ZONING APPROVAL

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## MARANA ORDINANCE NO. 2010.11

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RELATING TO DEVELOPMENT; APPROVING A REZONING CREATING THE MARANA REGIONAL LANDFILL SPECIFIC PLAN AND APPROVING A MINOR AMENDMENT TO THE GENERAL PLAN

WHEREAS H. KAI FAMILY NG1, L.L.C., an Arizona limited liability company (the "Owner"), owns approximately 591.21 acres of property located one mile north of Avra Valley Road, one mile east of Trico Road, and a half mile south of Silverbell Road within a portion of Section 1, Township 12 South, Range 10 East, as described on Exhibit "A" attached to and incorporated in this Ordinance by this reference (the "Rezoning Area"); and

WHEREAS the Owner and DKL Holdings, Inc., a Delaware corporation, and their successors in interest to the Rezoning Area are together collectively referred to in this Ordinance as the "Developer"; and

WHEREAS the Developer seeks approval of a rezoning of the Rezoning Area (this "Rezoning") for the purpose of developing a municipal solid waste landfill referred to in this Ordinance as the Marana Regional Landfill; and

WHEREAS this Rezoning requires a minor amendment to the Marana General Plan, which the Town Council finds to be in the best interests of the Town; and

WHEREAS the Marana Planning Commission held a public hearing on February 24, 2010, and recommended by a vote of three in favor and two opposed (Commissioners Jeffrey Adragna and Michael Wiles dissenting and Vice Chair Marcia Jakab and Commissioner Tina Le Page-Wood absent) that the Town Council approve this rezoning; and

WHEREAS the Town Council heard from representatives of the Developer, staff, and members of the public at regular Town Council meetings held July 20, August 17, and November 3, 2010; and

WHEREAS the Town Council voted at its November 3, 2010 meeting to approve the rezoning and its associated minor amendment to the Marana General Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MARANA, ARIZONA, as follows:

SECTION 1. A minor amendment to the General Plan is hereby approved, changing the General Plan designation of the Rezoning Area from Rural Density Residential (RDR) to Master Plan Area (MPA).

SECTION 2. The zoning of the Rezoning Area is hereby changed from 'RD-180' (Rural Development - minimum lot size of 180,000 square feet) to 'F' Specific Plan, and creating and applying the Marana Regional Landfill Specific Plan to the Rezoning Area.

SECTION 3. This Rezoning is subject to the following conditions, the violation of which shall be treated in the same manner as a violation of the Town of Marana Land Development Code (but which shall not cause a reversion of this rezoning Ordinance):

1. Compliance with all provisions of Town codes and ordinances, and policies of the General Plan current at the time of development, including but not limited to requirements for public improvements.
2. The Marana Regional Landfill shall be developed in accordance with all local, state, and federal regulations and requirements for solid waste disposal, groundwater protection, site drainage, vector control, and site reclamation and revegetation.
3. The Marana Regional Landfill shall be used only for the final disposal of non-hazardous solid waste in accordance with federal and Arizona state law and the terms of any governmental authorizations applicable to the project or the property.
4. All Arizona Department of Environmental Quality (ADEQ) requirements must be achieved and appropriate permits obtained including, but not limited to: approval of a solid waste facility plan; aquifer protection permit; 404 permit; financial assurance demonstration; and, Arizona pollutant discharge system (AZPDES) multi-sector general permit with a storm water pollution prevention plan for construction activities and landfill operations.
5. All Arizona Department of Water Resources (ADWR) requirements must be achieved and appropriate permits obtained including, but not limited to: groundwater industrial use permit and drilling permits for monitoring wells.
6. All Pima County Department of Environmental Quality (PDEQ) requirements must be achieved and appropriate permits obtained including, but not limited to: Title V Air Permit; general aquifer protection permit for septic tanks; and one or more right-of-way permits must be obtained from Pima County for work within the portions of Avra Valley Road located in unincorporated Pima County.
7. The Developer shall provide financial assurances pursuant to the requirements of the Arizona Department of Environmental Quality (ADEQ) that include mechanisms for corrective action, facility closure, and post-closure care.
8. The Developer will be required to process a development plan, landscape plan, native plant permit, and all associated improvement plans through the Town of Marana.
9. The Developer shall secure all permits required by the Town of Marana including, but not limited to: floodplain use permit; grading permit; building permits for on-site structures; and, right-of-way permits for work within the portions of Avra Valley Road located within the town limits of Marana.
10. The Marana Regional Landfill shall be designed to withstand the 500-year flood event.
11. A traffic impact study must be accepted by the Town of Marana Traffic Engineering Division prior to approval of the development plan. The developer shall be responsible for the design and construction of any transportation improvements determined to be necessary by staff based upon the findings of the study.
12. Prior to the Town's approval of the development plan, the Developer shall submit to the Town a structural analysis report for the bridge on Avra Valley Road over the east branch of the Brawley Wash. The Developer shall be responsible for the design and construction of any improvements to the bridge determined to be necessary by staff based upon the findings of the report.
13. Prior to the Town's approval of the development plan, the Developer shall submit to the Town a geotechnical analysis report for the pavement conditions on Avra Valley Road between I-10 and Trico Road. The Developer shall be responsible for any pavement improvements determined to

- be necessary by staff on said segment of Avra Valley Road based upon the findings of the report.
14. There shall be no access provided to the Rezoning Area from West Silverbell Road.
  15. The Rezoning Area shall not be served by or connected to a rail spur.
  16. No waste shall be accepted at the Marana Regional Landfill which has, to the knowledge of the Developer, been transported by rail.
  17. Cultural resource clearance is required prior to the issuance of a grading permit.
  18. A burrowing owl survey shall be completed by a qualified biologist no more than 30 days prior to any ground disturbing activities.
  19. Developer understands and acknowledges that the Town of Marana will not be the designated water provider and will not provide an assured water supply or water service to the Rezoning Area unless and until, at a minimum, the then-owner of the Rezoning Area transfers to Marana, by the appropriate Arizona Department of Water Resources form, any Irrigation Grandfathered Rights or Type I Non-Irrigation Grandfathered Rights appurtenant to the land.
  20. Before a certificate of occupancy is issued for any structures on the Rezoning Area, the Developer shall have completed or shall provide evidence to the Town's satisfaction that the Developer has made a diligent effort to complete the process of having the property annexed into a fire district or otherwise provide for fire protection.
  21. All structures proposed to be constructed within the Rezoning Area shall require evaluation by the appropriate fire district for the inclusion of an automatic fire sprinkler system at the time of building permit application.
  22. The ultimate elevation of the Marana Regional Landfill after closure and capping shall not exceed an elevation of 2,145 feet above mean sea level (165 feet above existing surface grade).
  23. Within sixty (60) days of receiving final entitlements by ADEQ, the Developer shall offer each of the owners of property containing each of the five (5) domestic water wells registered within two (2) miles down gradient from the Rezoning Area two (2) quarterly water samples over a six (6) month period in order to obtain a statistically valid background determination of the quality of water in each well. The Developer shall provide sampling results to the property owners or occupants. The wells will be sampled under parameters deemed as standard for drinking water by ADEQ.
  24. The Developer shall keep the Rezoning Area in a neat, clean, and sanitary condition, and work with the adjacent property owners to manage litter resulting from landfill operations during the operation life of the Marana Regional Landfill. The Developer shall submit a litter control plan to the Town of Marana for review and acceptance prior to the opening date of the landfill.
  25. The Developer shall immediately begin coordination with the Federal Aviation Administration (FAA) to ensure that no conditions may result in a status of non-compliance with respect to applicable grant assurances at the Marana Regional Airport. Federal Form 7460 shall be filed with the FAA to initiate the coordination process. Evidence of the initiation of this process must be submitted to the Town of Marana with the first submittal of a development plan.
  26. A mitigation plan shall be prepared that demonstrates that the proposed Marana Regional Landfill will not be a wildlife attractant hazard to the Marana Regional Airport pursuant to the Code of Federal Regulations (40 CFR 258).
  27. During the development review process, the Developer shall submit a plan to the Town that addresses the use of back-up alarms or warning devices on the commercial vehicles operating at the Marana Regional Landfill site. The Town shall have the final authority to determine acceptability of all such devices as well as the allowable hours of use.
  28. No approval, permit or authorization by the Town of Marana authorizes violation of any federal

or state law or regulation or relieves the Developer from responsibility to ensure compliance with all applicable federal and state laws and regulations, including the Endangered Species Act and the Clean Water Act. Appropriate experts should be retained and appropriate federal and state agencies should be consulted to determine any action necessary to assure compliance with applicable laws and regulations.

29. No lot split of any kind is allowed within the Rezoning Area without the written consent of the Town of Marana.

SECTION 4. This Ordinance shall not be effective until the Town files with the county recorder an instrument (in a form acceptable to the Town Attorney), executed by the Owner and any other party having any title interest in the Rezoning Area, that waives any potential claims against the Town under the Arizona Property Rights Protection Act (A.R.S. § 12-1131 *et seq.*, and specifically A.R.S. § 12-1134) resulting from changes in the land use laws that apply to the Rezoning Area as a result of the Town's adoption of this Ordinance. If this waiver instrument is not recorded within 90 calendar days after the motion approving this Ordinance, this Ordinance shall be void and of no force and effect.

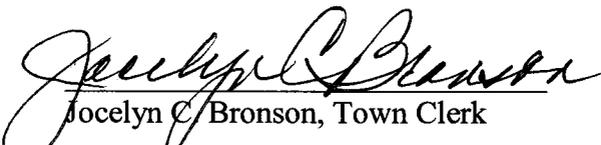
SECTION 5. All ordinances, resolutions and motions and parts of ordinances, resolutions, and motions of the Marana Town Council in conflict with the provisions of this Ordinance are hereby repealed, effective as of the effective date of this Ordinance.

SECTION 6. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 3<sup>rd</sup> day of November, 2010.

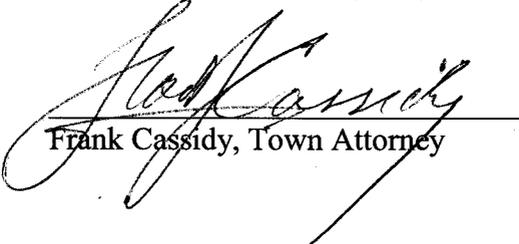
  
\_\_\_\_\_  
Mayor Ed Honea

ATTEST:

  
\_\_\_\_\_  
Jocelyn C. Bronson, Town Clerk



APPROVED AS TO FORM:

  
\_\_\_\_\_  
Frank Cassidy, Town Attorney

# Exhibit A

All that certain real property situate in the County of Pima, State of Arizona, described in Docket 13705 at Page 2054 thereof, records of said Pima County, as Section 1, except Government Lot 4 as shown on the General Land Office Plat of Township 12 South, Range 10 East, Gila and Salt River Meridian, officially filed May 26, 1924;

## MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**Beginning** at the southeast corner of said Section 1, common with the southeast corner of said parcel described in Docket 13705, Page 2054 (hereinafter referred to as 'record parcel'), marked by an aluminum capped rebar, RLS 29873;

**Thence** from said **POINT OF BEGINNING**, westerly along the south line of said Section 1, common with the south line of said 'record parcel', **S 89° 24' 30" W, 5265.55** feet to a bent General Land Office pipe marked by an aluminum capped rebar, RLS 26932 at the southwest corner thereof;

**Thence** leaving said southwest corner, northerly along the west line of the southwest quarter of said Section 1, common the west line of said 'record parcel', **N 00° 23' 54" W, 2640.71** feet to the northwest corner thereof (west quarter corner, Section 1), marked by a General Land Office brass capped pipe;

**Thence** leaving said northwest corner, northerly along the west line of the southwest quarter of the northwest quarter of said Section 1, **N 00° 31' 26" W, 1319.30** feet to the northwest corner thereof, common with the southwest corner of said Government Lot 4, marked by an aluminum capped rebar, RLS 26932;

**Thence** leaving said common corner, easterly along the south line of said Lot 4, common with the boundary of said 'record parcel', **N 89° 24' 52" E, 1317.91** feet to the southeast corner thereof, marked by an aluminum capped rebar, RLS 26932;

**Thence** leaving said southeast corner, northerly along the east line of said Lot 4, common with the boundary of said 'record parcel', **N 00° 28' 52" W, 1227.78** feet to the northeast corner thereof, marked by an aluminum capped rebar, RLS 26932;

**Thence** leaving said northeast corner, easterly along the north line of said Section 1, common with the north line of said 'record parcel', **N 89° 33' 12" E, 3956.48** feet to the northeast corner thereof, marked by a General Land Office brass capped pipe;

**Thence** leaving said northeast corner, southerly along the east line of said Section 1, common with the east line of said 'record parcel', **S 00° 21' 07" E, 5177.66** feet to the **POINT OF BEGINNING** of Exhibit A herein described;

Containing 589.885 ACRES of land (more or less)

Subject to and together with all matters of public record

### Basis of Bearing:

The bearings shown on this description are based on Geodetic North using the data provided by the National Geodetic Survey for stations AF14, Center and NN86 on NAD 83 datum that produced a measured scale factor of .99994523.



Expires: 3-31-2011

Page: 1 of 1  
Date: July 9, 2010  
Project: 4309 HE-3

**Settlemeier LLC**  
LAND SURVEYING SERVICES

P.O. Box 12612 - Tucson, AZ 85732

Phone (520) 512-0666

Fax (520) 512-1666

surveys@settlemeier.tuccoxmail.com

## **MARANA ORDINANCE NO. 2010.08**

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RELATING TO ANNEXATION; ANNEXING INTO THE CORPORATE LIMITS OF THE TOWN OF MARANA THAT TERRITORY KNOWN AS THE AVRA VALLEY ROAD-KAI ANNEXATION BEING AN AREA CONTAINING APPROXIMATELY 1,200 ACRES OF LAND LOCATED PREDOMINANTLY NORTH OF AVRA VALLEY ROAD, APPROXIMATELY ONE MILE EAST OF TRICO ROAD AND SOUTHWEST OF SILVERBELL ROAD INCLUDING THE ADJACENT RIGHTS-OF-WAY OF AVRA VALLEY ROAD

WHEREAS, petitions, in writing, accompanied by a map or plot of said real property sought to be annexed have been filed and presented to the Mayor and Council of the Town of Marana, Arizona, signed by the owners of more than fifty percent of the value of the real and personal property and more than fifty percent of the persons owning real and personal property that would be subject to taxation by the Town of Marana as shown by the last assessment of said property, said property being contiguous to the Town of Marana, and not now embraced within its limits, asking that the property be annexed into the Town of Marana, and to extend and increase the corporate limits of the Town of Marana so as to embrace same; and

WHEREAS, the Mayor and Council of the Town of Marana, Arizona, desire to approve the annexation petitions and extend and increase the corporate limits of the Town of Marana to include said territory, which is approximately 1,200 acres generally located predominantly north of Avra Valley Road, approximately one-mile east of Trico Road and southwest of Silverbell Road, described and illustrated in Exhibit "A", attached to and incorporated in this Ordinance by this reference; and

WHEREAS, the Avra Valley Road-Kai annexation is an area within Sections 7 and 8 of Township 12 South, Range 11 East and Sections 1, 12 and 13 of Township 12 South, Range 10 East, of the Gila and Salt River Base and Meridian, Pima County, Arizona; and

WHEREAS, the petitions set forth a true and correct description of all the exterior boundaries of the entire area proposed to be annexed to the Town of Marana and had attached thereto at all times an accurate map of the territory desired to be annexed; and

WHEREAS, no alterations increasing or reducing the territory sought to be annexed have been made after the petition was signed by any owner of real and personal property in such territory; and

WHEREAS, the zoning classifications on the property prior to annexation were "Pima County Zone RH" (Rural Homestead); and

WHEREAS, in order to establish original Town of Marana zoning without permitting densities or uses that are greater than those permitted in Pima County, the properties will translate to the RD-180 zone (Single Family Residential) in the Town of Marana's Land Development Code; and

WHEREAS, the provisions of A.R.S. § 9-471, and amendments thereto, have been fully observed; and

WHEREAS, proper and sufficient certification and proof of the foregoing facts are now on file in the office of the Town Clerk of the Town of Marana, together with a true and correct copy of the original petition referred to herein, which is on file in the office of the County Recorder.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Marana, Arizona that:

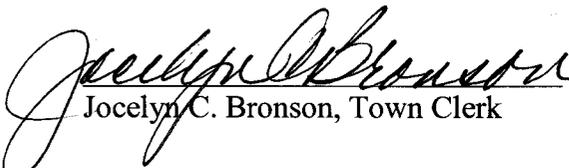
1. The territory known as the Avra Valley Road-Kai annexation, described and illustrated in Exhibit "A", is annexed into the Town of Marana and that the present corporate limits are extended and increased to include the described area.
2. A copy of this Ordinance, including Exhibit "A" describing and illustrating the territory hereby annexed to the Town of Marana, certified by the Mayor of the Town, shall be forthwith filed and recorded in the office of the County Recorder of Pima County, Arizona.
3. The zoning classification of "Pima County Zone RH" (Rural Homestead) within the annexed area is hereby changed to "Town of Marana Zone RD-180" (Single Family Residential).

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 18<sup>th</sup> day of May, 2010.



  
\_\_\_\_\_  
Mayor Ed Honea

ATTEST

  
\_\_\_\_\_  
Jocelyn C. Bronson, Town Clerk

APPROVED AS TO FORM:

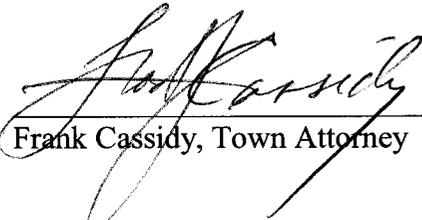
  
\_\_\_\_\_  
Frank Cassidy, Town Attorney



Exhibit A (continued)

- Thence leaving said east line, westerly along the south right-of-way line of said AVRA VALLEY ROAD, S 89° 24' 03" W, 3966.14 feet to the northeast corner of the widening of said right-of-way, described in Docket 5517 at Page 1036 thereof, records of said Pima County, on the east line of Government Lot 1, marked by an aluminum capped rebar bearing registration number RLS 26932;
- Thence leaving said northeast corner, southerly along the east line of said Lot 1, S 00° 37' 39" E, 25.00 feet to the southeast corner of said recorded widening, marked by an aluminum capped rebar bearing registration number RLS 26932;
- Thence leaving said southeast corner, westerly along the south line of said recorded widening, S 89° 24' 24" W, 1427.41 feet to a point of curve, marked by an aluminum capped rebar bearing registration number RLS 26932;
- Thence leaving said point of curve, westerly along the arc of a tangent curve to the left, having a radius of 1367.276 feet and a central angle of 19° 39' 53", 469.27 feet to the southwest corner of said recorded widening on the west line of said Lot 1, marked by an aluminum capped rebar bearing registration number RLS 26932;
- Thence leaving southwest corner, southerly along the west line of said Lot 1, common with the east line of the southeast quarter of said Section 12, S 00° 27' 04" E, 463.50 feet to the southeast corner thereof, marked by an a 3-inch diameter capped pipe;
- Thence leaving the southeast corner of said Section 12, westerly along the south line of the southeast quarter thereof, S 89° 22' 51" W, 886.16 feet to a point on the south right-of-way line of said AVRA VALLEY ROAD, marked by an aluminum capped rebar bearing registration number RLS 26932;
- Thence leaving said south line, westerly along the south right-of-way line of said AVRA VALLEY ROAD on the arc of a non-tangent curve to the right, from which said point, the radius point thereof bears northwesterly, N 19° 35' 33" W, 1472.28 feet distant, through a central angle of 18° 58' 22", 487.52 feet to a point of tangency, marked by an aluminum capped rebar bearing registration number RLS 26932;
- Thence leaving said point of tangency, westerly along the south line of said AVRA VALLEY ROAD, S 89° 22' 51" W, 674.90 feet to a point thereon, marked by an aluminum capped rebar bearing registration number RLS 26932;
- Thence leaving said south right-of-way line, northerly and perpendicular, N 00° 37' 09" W, 80.00 feet to a point on the north right-of-way line of said AVRA VALLEY ROAD, marked by a #4 rebar with registration tag RLS 31025;
- Thence leaving said north right-of-way line, northerly, N 00° 22' 46" W, 5279.23 feet to point on the south line of said Section 1, marked by an aluminum capped rebar bearing registration number RLS 26932;
- Thence westerly along the south line of said Section 1, S 89° 24' 30" W, 3225.79 feet to the southwest corner thereof, marked by an aluminum capped rebar bearing registration number RLS 26932;
- Thence leaving said southwest corner, northerly along the west line of the southwest quarter of said Section 1, N 00° 23' 54" W, 2640.71 feet to the northwest corner thereof (west quarter corner), marked by a General Land Office brass capped pipe;
- Thence leaving said west quarter corner, northerly along the west line of the northwest quarter of said Section 1, N 00° 31' 26" W, 1319.30 feet to the southwest corner of Government Lot 4, marked by an aluminum capped rebar bearing registration number RLS 7599;

Exhibit A (continued)

- Thence leaving said southwest corner, easterly along the south line of said Government Lot 1, N 89° 24' 52" E, 1317.91 feet to the southeast corner thereof, marked by an aluminum capped rebar bearing registration number RLS 26932;
- Thence leaving said southeast corner, northerly along the east line of said Government Lot 1, N 00° 28' 52" W, 1227.78 feet to the northeast corner thereof, marked by an aluminum capped rebar bearing registration number RLS 26932;
- Thence leaving said northeast corner, easterly along the north line of said Section 1, N 89° 33' 12" E, 3956.49 feet to the northeast corner thereof, marked by a General Land Office brass capped pipe;
- Thence leaving said northeast corner, southerly along the east line of said Section 1, S 00° 21' 07" E, 5177.66 feet to the southeast corner thereof on the west line of Government Lot 1 of said Section 7, marked by an aluminum capped rebar bearing registration number RLS 29873;
- Thence leaving said southeast corner, southerly along the east line of the northeast quarter of said Section 12, common with the west line of said Lot 1 and Government Lot 2 of said Section 7, S 00° 18' 26" E, 2025.92 feet to the southwest corner of said Lot 2 (west quarter corner of said Section 7), marked by an aluminum capped rebar bearing registration number RLS 26932;
- Thence leaving said west quarter corner, easterly along the north line of the south half of said Section 7, N 89° 23' 47" E, 5853.77 feet to the POINT OF BEGINNING of Exhibit A herein described;

Containing 1,200.82 ACRES of land (more or less)

Subject to and together with all matters of public record

**Basis of Bearings and distances:**  
The bearings shown on this description are based on Geodetic North using data provided by the National Geodetic Survey at stations: AF14, Center, and NN86. Datum: NAD 83. Resulting measured scale factor: 0.99994523  
The calls and resultant acreage shown on this description are based on the Arizona State Plane coordinate system, central zone; measured on grid



Page: 3 of 3  
Date: March 9, 2010  
Project: 4309 HE-1  
**SETTLEMEYER LLC**  
P.O. Box 12612 - Tucson, AZ 85732  
Phone (520) 512-0666  
Fax (520) 512-1666  
surveys@settlemyer.tuccoxmail.com

**MARANA ORDINANCE NO. 2010.19**

RELATING TO DEVELOPMENT; APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE MARANA REGIONAL LANDFILL DEVELOPMENT AGREEMENT

WHEREAS the Marana Town Council finds that the Marana Regional Landfill Development Agreement is consistent with the Marana General Plan, applicable specific plans, and relevant Town policies; and

WHEREAS the Marana Town Council finds that the Marana Regional Landfill Development Agreement is in the best interest of the Town and its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, AS FOLLOWS:

SECTION 1. The Marana Regional Landfill Development Agreement is hereby approved in the form attached to and incorporated by this reference in this ordinance as Exhibit A.

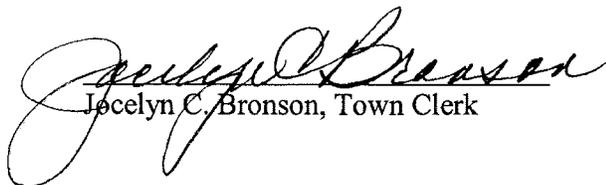
SECTION 2. The Mayor is hereby authorized and directed to execute the Marana Regional Landfill Development Agreement for and on behalf of the Town of Marana.

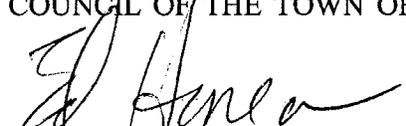
SECTION 3. The various Town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 3<sup>rd</sup> day of November, 2010.

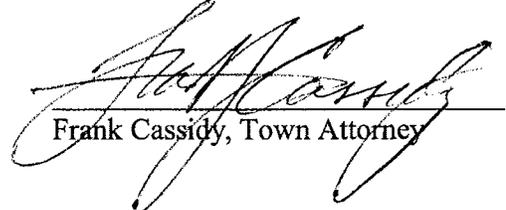


ATTEST:

  
Jocelyn C. Bronson, Town Clerk

  
Mayor Ed Honea

APPROVED AS TO FORM:

  
Frank Cassidy, Town Attorney

F. ANN RODRIGUEZ, RECORDER  
RECORDED BY: K O  
DEPUTY RECORDER  
1861 PE-2



DOCKET: 13931  
PAGE: 33  
NO. OF PAGES: 1  
SEQUENCE: 20102150006  
11/08/2010  
CONSEN 08:26  
MAIL  
AMOUNT PAID \$ 8.00

SMARA  
TOWN OF MARANA  
TOWN CLERK  
11555 W CIVIC CENTER DR  
MARANA AZ 85653

**CONSENT TO CONDITIONS OF REZONING AND WAIVER  
OF CLAIMS FOR POSSIBLE DIMINUTION OF VALUE  
RESULTING FROM TOWN OF MARANA ORDINANCE  
NO. 2010.11**

H. KAI FAMILY NG1, L.L.C., an Arizona limited liability company (the "Owner"), owns the land referred to in this instrument as the "Property," which is particularly described in Exhibit "A" attached to Marana Ordinance No. 2010.11 (the "Rezoning Ordinance") and incorporated by this reference in this instrument. The Property is the subject of Town of Marana rezoning case PCZ-09057, filed on behalf of the Owner.

The Owner hereby agrees and consents to all of the conditions imposed by the Rezoning Ordinance, including all stipulations adopted by the Marana Town Council in conjunction with the approval of said Ordinance and waives any right to compensation for diminution in value pursuant to Arizona Revised Statutes § 12-1134 that may now or in the future exist as a result of the approval of said Ordinance. The Owner also consents to the recording of this document in the office of the Pima County Recorder, to give notice of this instrument and its effects to successors in interest of the Property, who shall be bound by it.

Dated this 2nd day of November 2010.

H. KAI FAMILY NG1, L.L.C.,  
an Arizona limited liability company

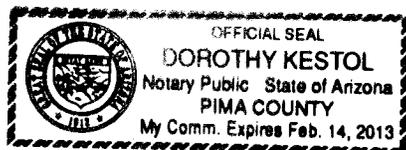
BY: Herbert Kai  
Herbert Kai, Manager

STATE OF ARIZONA )  
County of Pima ) ss.

The foregoing instrument was acknowledged before me on November 2, 2010, by Herbert Kai, Manager of H. KAI FAMILY NG1, L.L.C., an Arizona limited liability company, on behalf of the L.L.C.

My commission expires:  
2-14-10

Dorothy Kestol  
Notary Public



11/11/10 10:00 AM