Board of Supervisors Memorandum

November 22, 2016

Foreign Trade Zone Payment in Lieu of Taxes Agreement for New Employer Monsanto

I. Background

As part of the County Economic Development Plan, which seeks to create jobs and attract new business, as well as capital investment that serves to expand the property tax base, certain incentives are offered by the County to qualified companies. Pima County works with Sun Corridor Inc. and the Arizona Commerce Authority to attract new employers to our region. Monsanto has purchased property in unincorporated Pima County and plans to construct a state of the art automated greenhouse and associated facilities on vacant agricultural land located at Sanders and Twin Peaks Road. As we have done previously with major employers such as HomeGoods and Ventana Medical Systems/Roche, Pima County proposes to support Monsanto's application for activation of its site within the existing Free Trade Zone (FTZ).

II. Project Description

Monsanto is a St. Louis-based, Fortune 500 company with 404 facilities located in 66 countries around the world. In August, Monsanto announced plans to build a seven-acre, state-of-the-art greenhouse on land in Pima County. At this new site, Monsanto expects to conduct corn development year-round supporting the advancement of corn seeds that will eventually become new varieties for their farmer customers. The indoor air-controlled facility will be automated in numerous ways, including full climate, light and atmospheric management of plant growing conditions. All in-bound and out-bound air will be filtered and controlled, so the company is able to govern humidity and temperature levels, as well as contain pollen. In addition, automated operations and movable benches will improve ergonomic conditions for Monsanto employees. Along with the greenhouse, the company anticipates that approximately two acres will be used for seed processing and an office building. Additional improvements at the site include a two-million-gallon water tank for fire suppression and a composting facility.

By moving key pieces of the corn product development process under cover (inside), Monsanto expects to reduce the environmental impact and enhance sustainable production. Operations in a greenhouse will reduce water and pesticide usage while managing exposure to weather variables that would otherwise be encountered in open field environments. Monsanto estimates greenhouse annual water use of 50 acre feet compared with 600 acre feet of water use for open field irrigation on the property. Because the greenhouse will be fully automated, Monsanto will use less land compared to traditional field production. Precise management of plant diseases and insect pressure will enable more targeted control resulting

in reduced pesticide usage. Additionally, the smaller footprint, combined with a 100 percent water recapture and recycle system, will mean the facility will use one-fifth of the water normally used on an open cornfield.

The company, which proposes to break ground on the facility before the end of this year, is in compliance with the agricultural zoning for the site and will be required to complete the standard Pima County permitting process for those elements where the County has authority. Despite the controversy surrounding the proposed development of genetically modified seed and opposition from activist groups, the company is in legal compliance for the facility it intends to operate; and Pima County has not identified any negative air quality, water quality, water supply, transportation capacity, or natural resource impacts from the development of the facility. Furthermore, the County cannot regulate an agricultural operation based on State law.

III. Economic Development Incentives and Requirements of Monsanto

Pima County has been in discussions regarding the Monsanto operation, previously referred to as Project Corn, since March 2016. After initial referral through Sun Corridor Inc., contact from Monsanto representatives lessened until significantly increasing in early October, culminating with the purchase of the property from a private seller later that same month. Despite media reports of "incentive packages" being negotiated between Pima County and Monsanto, the company will, in fact, qualify for favorable tax treatment under State law upon activation. In the proposed Payment in Lieu of Taxes (PILOT) Agreement (Attachment 1), Monsanto is agreeing to forgo some of that favorable treatment in return for the County's agreement to support its FTZ activation application. Under the agreement, Monsanto will make payments to the County and several other local jurisdictions in amounts corresponding to the property taxes that Monsanto, but for the favorable tax treatment under State statute, would pay. The County will refund to Monsanto the payments it receives if Monsanto demonstrates it has met certain economic indicators.

The County will also provide the standard job training through Pima County One-Stop if the service is requested by the company. Also, Pima County will attempt to expedite permitting through Development Services, something we offer for all new economic development attraction, expansion and retention projects.

Also included is a condition in the PILOT agreement for development of a Memorandum of Understanding (MOU) between Pima County and Monsanto. The MOU is discussed in Section IX and attached to this memorandum as Attachment 2.

IV. Property Tax Incentive for a Major New Employer

If approved by the Foreign Trade Zones Board in Washington, DC the activation in the FTZ administered by Sun Corridor. Inc. will result in Monsanto receiving a property tax

classification change under Arizona law. The Monsanto proposed operation is expected to generate approximately $90 to $100 million in capital investment for site acquisition, new construction, associated utility infrastructure and other improvements. If the activation application is granted, the property's assessment ratio will change from 15 percent as a qualified agricultural property to 5 percent for the FTZ. This results in a significant property tax reduction for Monsanto. However, due to the large increase in net assessed value that will result from the construction of Monsanto's facility, the actual amount of taxes generated will be much higher than what the vacant land currently generates, even at the lower assessment ratio.

At the encouragement of the County, Monsanto negotiated directly with the public education taxing entities that would be directly impacted by the reduction in the assessment ratio. The dismal funding of education by the State of Arizona continues to make this action necessary. The Marana Unified School District has worked out its own agreement with Monsanto.

When fully operational, the Monsanto facility is expected to create 50 net new jobs by the fourth year of the agreement, with an average salary of $44,000 with appropriate benefits. Due to the sophisticated technology utilized by Monsanto and the automated nature of the greenhouse operation, half of these jobs are expected to be part-time agricultural technicians who will still earn an average salary of $35,000 annually.

V. Impact of Monsanto on Tax Base Expansion and the Taxpayers of Pima County

While the scale of job creation for Monsanto is significantly smaller than that of Caterpillar, World View, or the other recent economic development announcements, the impact of the $90 to $100 million capital investment on the Pima County tax base is vitally important to our region. Growing the tax base means the taxable property of the County increases; hence, other taxpayers will bear less of the tax burden if the base is expanded. Monsanto will become the largest taxpayer in the Marana Unified School District. It will have twice the taxable value of the Ritz Carlton Hotel and Resort in Marana. This means all of the taxpayers in the School District will pay fewer taxes based on Monsanto's decision to locate its new operation on this property.

The table below shows the estimated property tax payments to the various taxing jurisdictions for the property as it now exists; property taxes that would be paid on the property, as improved, with an FTZ designation and assuming full jurisdictional participation, which is the decision of the US Department of Commerce; and the combined property taxes and PILOTs that will be paid by Monsanto under the PILOT Agreement. The table also shows the estimated taxes that will be paid after the expiration of the FTZ designation.

Monsanto Property Tax Estimates.			
Jurisdiction	**2015 Property Taxes**	**Year 5 (Mid-Term) Estimated Taxes for Class 6.2 FTZ Property**	**Estimated Taxes Upon Expiration of FTZ**
Pima County Primary and Debt Service	$ 710.77	$ 190,910.70	511,952.46
State School Equalization Primary	73.41	18,964.61	50,856.14
Marana School District Primary and Secondary	818.55	[1]237,789.40	637,663.92
Pima Community College Primary	198.85	146,141.88	137,746.27
Joint Technical Education District Secondary	7.26	5,337.94	5,031.28
Central Arizona Water Conservation District Secondary	20.34	14,946.21	14,087.57
Pima County Flood Control District Secondary	45.54	11,003.85	31,438.56
Pima County Library District Secondary	74.85	19,336.10	51,852.33
Fire District Assistance Tax Secondary	6.80	4,985.63	4,699.21
Total Property Taxes	**$1,956.37**	**$649,416.32**	**1,445,327.74**

[1]*Marana Unified School District agreed to a $500,000 payment to its Foundation in lieu of a PILOT.*

As can be seen from the table, Pima County's 2015 property tax revenue for the property totals $831. At Year 5 – the midterm of the FTZ designation period – the County estimates the property tax will be $221,251, a very significant increase primary attributable to tax base expansion due to the project's taxable value.

On October 27, 2016, the Marana Unified School District Governing Board unanimously approved a cash payment as their PILOT Agreement. The District will benefit from a $500,000 cash payment from Monsanto to the nonprofit Marana Schools' 2340 Foundation. The Foundation supports the Marana school system by *"...providing the necessary resources to ensure equity and excellence...within the Marana Unified School District."* This payment by Monsanto will be used primarily for scholarships and tutoring.

VI. Pima County Agricultural Science Advisory Commission

Agriculture has been a mainstay of the economy in Pima County for centuries. Industry changes, genetically-modified seed product, the conversion of agricultural lands to residential

and industrial uses and concerns over environmental and water sustainability continue to have an impact on agriculture across the Pima County.

Given the far-reaching claims and controversial statements regarding Monsanto over their possible location in Pima County, it is important to address concerns that may arise both factually and scientifically. Building on the success of the Sonoran Desert Conservation Plan Science and Technical Advisory Team that was charged with separating fact from fiction during our conservation planning process, I will recommend the Board create an Agricultural Science Advisory Commission.

The purpose of the Pima County Agricultural Science Advisory Commission is to provide a science-based forum for the discussion of issues critical to the agriculture industry in Pima County and to advise the Board of Supervisors on matters related to agriculture, water and environmental impacts. A specific task of the Commission will be to monitor the Monsanto site to evaluate the effectiveness of the proposed new agricultural technology in meeting food sustainability objectives with reduced resource consumption, as well monitoring for and evaluating adverse effects, if any, from the Monsanto operation. The Commission would meet quarterly, or as needed, to address issues forwarded for consideration by the Board of Supervisors or issues and concerns brought forth by members.

Should the Commission determine research and/or technical analysis is required, such work will be performed by The University of Arizona College of Agriculture and Life Sciences, which will conduct appropriate analysis and provide a written report. The cost associated with this work, if needed, shall be reimbursed by Monsanto in an amount not to exceed $50,000 per year.

The Commission will operate under the standard operating procedures managed by the Clerk of the Board, including submission of regular minutes of meetings and activities. Patrick Cavanaugh, Deputy Director of the Pima County Economic Development Office, will be the Commission Administrator and Ex-Officio Member. Below is the recommended membership for the Commission:

1. Dr. Shane Burgess, Dean, The University of Arizona College of Agriculture and Life Sciences
2. Dr. Joaquin Ruiz, Dean, The University of Arizona College of Science
3. Dr. Gary Nabhan, Director, The University of Arizona Center for Regional Food Studies
4. Dr. Douglas Taren, Associate Dean for Academic Affairs and Professor, Health Promotion Science Department, The University of Arizona Mel and Enid Zuckerman College of Public Health
5. Dr. Jeffery Silvertooth, Associate Dean and Director, Economic Development & Extension, Soil, Water and Environmental Science, The University of Arizona School of Plant Science

6. A physician from the Arizona Poison Control Center who specializes in toxicology.
7. A Monsanto representative
8. Patrick Cavanaugh, Deputy Director of the Pima County Economic Development Office, Commission Administrator and Ex-Officio Member

VII. Pima County Agricultural Community Advisory Committee

The Agricultural Community Advisory Committee will address issues and concerns brought forth by members in order to enable open discussion and to allow Monsanto to inform the community regarding the evolving technology and standards used within Pima County. The Committee shall meet at least quarterly (or as needed) and be guided by Pima County's standard procedure for Boards, Committees and Commissions and be subject to Arizona law governing open meetings and public records. Below is the recommended membership for the Commission:

1. Kimber Lanning, Local First Arizona
2. Brandon Merchant, Organic Gardening
3. Garrett Ham, 4-H
4. Jack Mann, Pima County Farm Bureau
5. Five additional members appointed by the Pima County Board of Supervisors
6. Patrick Cavanaugh, Deputy Director of the Pima County Economic Development Office, Commission Administrator and Ex-Officio Member

VIII. Memorandum of Understanding with Monsanto

To have a general understanding of how the Agricultural Science Commission and the Community Advisory Committee will be effective in carrying out their responsibilities, the County and Monsanto will enter into a Memorandum of Understanding (MOU) for such (Attachment 2). The MOU integrates the work and responsibilities of the Commission and Committee into Monsanto's proposed Pima County operations and outlines good faith operating principles for both parties.

IX. Recommendation

Pima County's strategic economic development efforts have led and will continue to lead to increased capital investment that serves to expand the tax base and create jobs. The Monsanto proposal does both, while not risking the residents of Pima County's health, safety or welfare.

Given the economic development opportunity associated with the Monsanto facility and the significant benefits to the tax base and taxpayers, I recommend the Board of Supervisors approve the following:

A. Lower Foreign Trade Zone property tax assessment ratios for the taxing districts controlled by the County;

B. Formation of the Agricultural Science Advisory Commission and the Agricultural Community Advisory Committee, as well the membership recommended for same in Sections VI and VII above; and

C. The Memorandum of Understanding with Monsanto.

Respectfully submitted,

C.H. Huckelberry
County Administrator

CHH/mjk – November 17, 2016

Attachments

ATTACHMENT 1

Payment In Lieu Of Taxes (PILOT) Fee Agreement

This PILOT Fee Agreement ("Agreement") is entered into by and among Monsanto Company, a Delaware corporation ("Monsanto"); Pima County, Arizona ("County"); Pima County Flood Control District ("FCD"); Pima County Library District ("Library"); and the Pima County Joint Technical Education District.

1. **Background and Purpose**.

1.1. Parties to this Agreement other than Monsanto may be referred to in this Agreement individually as a "Public Entity" or collectively as the "Public Entities." County, Library, and FCD may be referred to collectively as the "County Entities".

1.2. The Foreign-Trade Zones Act (19 U.S.C. § 81a-81u) authorizes the formation of foreign-trade zones and subzones ("FTZs") for the purpose of encouraging the conduct of commercial and industrial operations in the United States that might otherwise be conducted abroad.

1.3. Section 44-6501, A.R.S., authorizes the State of Arizona and any public or private corporation to apply to the U.S. Foreign-Trade Zone Board for establishment, activation, and operation of FTZs within Arizona.

1.4. Sun Corridor, Inc., an Arizona nonprofit corporation, is the grantee of the FTZ in Pima County, FTZ No. 174.

1.5. Monsanto has acquired a parcel of vacant land in unincorporated Pima County, approximately 155 acres in size, located near Sanders and Twin Peaks roads (the "Site"), which is within the jurisdictional boundaries of each of the Public Entities. The Site is also within the jurisdictional boundaries of the Marana Unified School District ("MUSD").

1.6. Monsanto plans to make substantial capital improvements to the Site and use the Site for the construction and operation of a state-of-the-art greenhouse/manufacturing and distribution operation. These improvements and operations are expected to have direct and indirect economic impacts that will benefit the community.

1.7. In connection with Monsanto's operations, Monsanto has filed or will file a usage-driven site application for a minor boundary modification of FTZ No. 174. Monsanto has asked the Public Entities to support its FTZ application (the "Application"), understanding that a showing of local economic benefit and support is essential for a successful application.

1.8. Under A.R.S. § 42-12006(2), real and personal property that is located within the area of an activated FTZ is classified as Class Six property for purposes of ad valorem taxes. The assessed valuation for Class Six property is less than the valuation that would be applicable to the Site if it were not located within an FTZ (this favorable tax treatment is referred to in this Agreement as the "Assessment Reduction").

1.9. The Assessment Reduction significantly reduces the amount of primary and secondary property taxes on the Site, and the revenues to the Public Entities, each of which relies heavily on property tax revenues for its operations. It also impacts the amount of State

equalization assistance property tax that is levied by the County pursuant to A.R.S. § 15-994 and distributed to school districts throughout the County.

1.10. The Public Entities are willing to support Monsanto's Application if they receive assurances that Monsanto's operations at the Site will provide a defined level of economic benefits to the community and will not adversely impact certain public revenues.

1.11. The County and the Monsanto are concerned about the availability of educational funding within the County, understanding that a strong educational system is important not only intrinsically but as a component of long-term, sustainable economic growth and development, which benefits both the community as a whole and private business interests.

1.12. Monsanto has, or will, enter into a binding legal agreement with MUSD that obligates Monsanto to provide stated consideration in exchange for MUSD's support of its Application (the "MUSD Agreement").

2. **Support of Application**. Each of the Public Entities agrees that it will, under the terms and conditions set forth in this Agreement, support Monsanto's Application by submitting no-objection letters to the proper authorities, upon request by Monsanto. If Monsanto has not applied for Site designation as described in Section 1 by June 30, 2018, or if Monsanto has applied for designation but the application has been rejected or denied this Agreement will automatically terminate as of that date, and any no-objection letters submitted by the Public Entities will no longer be effective and will be deemed to be withdrawn.

3. **Other Agreements**.

3.1. MUSD Agreement. If it has not done so already, Monsanto will enter into a binding agreement with MUSD to provide the financial assistance that its governing board approved as a condition of providing a no-objection letter. Any material default by Monsanto of its obligations under the MUSD Agreement will also constitute a default under this Agreement.

3.2. Community Memorandum of Understanding. As a condition precedent to the Public Entities' obligation to support the Application, Monsanto will enter into a nonbinding memorandum of understanding ("MOU") with the County. The MOU, the specific provisions of which are to be established and agreed upon at a later date, will address annual reporting by Monsanto regarding its activities and practices at the Site, and good faith participation by Monsanto in a community-based stakeholder group, to be further defined and agreed upon in the MOU, that will review those periodic reports and monitor the Site.

4. **PILOT Fees**.

4.1. Public Entity PILOT Fees. For each tax year (which are calendar years) during which the Site qualifies for the Assessment Reduction, Monsanto will pay to each Public Entity a payment-in-lieu-of-taxes fee (a "PILOT Fee") equal to the difference between (i) the sum of the primary and secondary property taxes that would be due to that Public Entity with respect to all real and personal property within the Site for that tax year if the Site did not qualify for the Assessment Reduction; and (ii) the sum of the primary and secondary property taxes that are *actually* paid to that Public Entity with respect to real and personal property within the Site for that year. If requested by JTED, Monsanto will pay the JTED PILOT Fees to a related foundation that supports JTED.

4.2. PILOT Fee for State Equalization and Fire District Assistance Taxes. For each tax year during which the Site qualifies for the Assessment Reduction, Monsanto will also pay to the County a PILOT Fee equal to the difference between (i) the amount of the state equalization assistance property tax that would be levied by the County pursuant to A.R.S. § 15-994 plus the amount of the fire district assistance tax that would be levied by the County pursuant to A.R.S. § 48-807, on all real and personal property within the Site for that tax year if the Site did not qualify for the Assessment Reduction; and (ii) the amount of those taxes actually paid to the County with respect to real and personal property within the Site for that year.

4.3. Payment of Fees. Within thirty (30) days following a semi-annual payment by Monsanto of its primary and secondary property taxes with respect to real and personal property within the Site, the County will prepare and deliver to Monsanto an invoice setting forth the amount of the PILOT Fee for each Public Entity for the taxing period just ended ("PILOT Invoice"). Monsanto will pay the PILOT Fee to each Public Entity within ninety (90) days after receipt of the PILOT Invoice. In the event Monsanto disagrees with the PILOT Invoice, Monsanto will pay the PILOT Fee under protest, in the same manner as a taxpayer would pay disputed property taxes, and a representative of the Monsanto and a representative of the County will promptly meet to attempt to resolve such dispute. Any delay by County in sending the PILOT Invoice to Monsanto will not be deemed to excuse Monsanto from its obligation to pay any amounts due under this Agreement upon later receipt of the PILOT Invoice.

4.4. Late Payments. Monsanto will pay a 10% late fee for any PILOT Fee that is not paid within ten days after written notice to Monsanto (from any Public Entity) that a PILOT Fee is overdue. This is not a penalty but an estimate of the cost of any late payments to the Public Entities.

5. **Forgiveness of County PILOT Fee.**

5.1. Economic Impacts. Each of the County Entities will refund to Monsanto the PILOT Fee paid to that Public Entity for each tax year during the PILOT Fee Forgiveness Period (as that term is defined below) if, and only if, Monsanto demonstrates that it met the conditions applicable to that year as set forth in Exhibit A. The refunds will not include the PILOT Fee for the State Equalization and Fire District Assistance Taxes. If Monsanto does not meet the conditions set forth in Exhibit A due to a reasonable cause, the County Entities agree to discuss with Monsanto the ability to extend the time to meet such requirements and/or the ability to amend this Agreement to revise such requirements.

5.2. "PILOT Fee Forgiveness Period" as used in this Agreement means the first 10 tax years during which the Site receives an Assessment Reduction.

5.3. Payment of Refund. Any PILOT Fee refund that is due to Monsanto will be paid by each of the County Entities to Monsanto within 30 days after receipt of a correct and complete Annual Report (defined below) regarding the year for which the PILOT Fee was paid.

5.4. Annual Report. Monsanto will provide the County with an annual report (the "Annual Report"), audited by a certified public accountant, that discloses the payroll, employee benefit, and capital-investment information needed to determine whether Monsanto has met the conditions applicable to that year as set forth in Exhibit A. The Annual Report must be in a form reasonably satisfactory to County, be reasonably itemized, show how any

calculations were done, and be furnished no later than March 30th each year for the preceding calendar year. The Annual Report must also show the amount of the PILOT Fees paid for that year to each of the County Entities, and the amount of any refund that Monsanto believes it is due under Section 5.1 above. The County will not require Monsanto to include in the Annual Report information that is proprietary or confidential by law, such as personal identifying information of individuals.

5.5. Audits. The County has the right, at any time, to conduct an informal audit of the information in the three most recent Annual Reports, and Monsanto will furnish the auditing Public Entity with the information and documentation reasonably needed to conduct the audit and verify the information and calculations in the Annual Reports, either by furnishing the Public Entity with copies of such documentation or by permitting the Public Entity to inspect the documentation on-site. If an audit reveals that Monsanto received a refund to which it was not entitled, Monsanto will promptly repay those funds to the County Entities. If an audit reveals that Monsanto was entitled to a refund that it did not receive, the County Entities will each promptly pay that refund to Monsanto.

6. **Property Tax or Valuation Appeal**. Nothing in this Agreement will be construed to limit the right of Monsanto or any successor owner of any property within the Site to appeal the County's calculation of the assessed-valuation or limited-assessed-valuation of property within the Site under applicable law. In the event an appeal results in a reduction in the assessed or limited-assessed valuation for any tax year, Monsanto will notify each Public Entity of the reduction, in writing, as well as the amount of refund to which Monsanto would be entitled if the PILOT Fee paid to that Public Entity had been paid as a property tax. Each Public Entity receiving notice will refund any overpayment of any PILOT Fee received by that Public Entity for that tax year.

7. **Liability**. The obligations of the Public Entities hereunder are several, not joint; no Public Entity will be deemed to be in default of this Agreement by virtue of a default by another.

8. **General Provisions**.

8.1. Successors and Assigns. This Agreement is binding on all successors or assigns of Monsanto and all successor owners of the Site so long as it qualifies for an Assessment Reduction.

8.2. Compliance with Laws. The parties will comply with all applicable federal, state and local laws, rules, regulations, and Executive Orders, without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona will govern the rights of the parties, the performance of this Agreement and any disputes hereunder. Any action relating to this Agreement will be brought in an Arizona court in Pima County.

8.3. Non-Discrimination. The parties will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out their duties pursuant to this Agreement, and in the course of carrying out their duties pursuant to this Agreement the parties will comply with the provisions of Executive Order 75-5, as amended by Executive Order 2009-09, which is incorporated into this Agreement by reference, as if set forth in full in this Agreement.

8.4. ADA. The parties will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

8.5. Severability. If any provision of this Agreement, or any application of it to the parties or any person or circumstances, is held invalid, such invalidity will not affect other provisions or applications of this Agreement that can be given effect without the invalid provision or application.

8.6. Waiver. A party's legal duty to fully perform any of its obligations under this Agreement is not excused by any failure of the party to whom that obligation is owed to take enforcement action with respect to any other failure, even one of a similar nature.

8.7. Conflict of Interest. This contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511.

8.8. No Joint Venture. This Agreement does not create any partnership, joint venture or employment relationship among the parties. No party will be liable for any debts, accounts, obligations or other liabilities whatsoever of another, including (without limitation) a party's obligation to withhold Social Security and income taxes for itself or any of its employees.

8.9. No Third Party Beneficiaries. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not parties to this Agreement.

8.10. Force Majeure. None of the Parties shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Agreement after the intervening cause ceases.

9. **Notice**. Any notice required or permitted to be given under this Agreement will be in writing and will be served by overnight delivery or by certified mail upon the other party as follows (or at such other address as may be identified by a party in writing to the other party):

Public Entities:

Pima County,
FCD, and Library
130 W. Congress Street
10th Floor
Tucson, Arizona 85701
Attention: County Administrator

Pima County Joint Technical Education District
2855 W. Master Pieces Drive
Tucson, Arizona 85741
Attention: Governing Board Chair

Monsanto:

Mr. Jeff McFarland
Monsanto Company
800 N. Lindbergh Blvd. G5E
St. Louis, MO 63167

10. **Entire Agreement**. This document, together with all exhibits, constitutes the entire Agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Agreement may not be modified, amended, altered or extended except through a written amendment signed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this PILOT Fee Agreement as of the Effective Date.

Monsanto Company, a Delaware corporation

_____

By:_____

Its:_____

_____
Date

Pima County, Arizona

_____
Sharon Bronson
Chair of the Board of Supervisors

Pima County Flood Control District

_____
Sharon Bronson
Chair of the Board of Directors

_____
Date

Pima County Library District

_____
Sharon Bronson
Chair of the Board of Directors

_____
Date

Attest:

_____
Robin Brigode, Clerk of the Board

Approved as to Form:

_____
Deputy County Attorney

REGINA NASSEN

Pima County Joint Technical Education District

Ruth Soloman Chair of the Governing Board	
Date	

EXHIBIT A
CONDITIONS FOR FORGIVENESS OF COUNTY PILOT FEE

Pursuant to Section 5.1 of the Agreement, each of the County Entities will, each year during the PILOT Fee Forgiveness Period, forgive and refund to Monsanto the County Entity PILOT Fees paid by Monsanto for that year if Monsanto, or another party on behalf of or in conjunction with Monsanto, has satisfied all of the below conditions during that year.

1. Total cumulative expenditure of at least $90 million for Site acquisition and construction costs on the Site related to new capital improvements, including, but not limited to, real and personal property purchases, improvements and installation costs, site preparation work, and other permanent improvements to the Site.

2. Employer-provided health insurance offered, during the entire year, to all full-time employees, at least 66% of the premium for which is paid by Monsanto.

3. Employer-provided dental insurance offered, during the entire year, to all full-time employees, at least 50% of the premium for which is paid by Monsanto.

4. Employer-provided 401(k) plan offered, for the entire year, to all full-time employees, for which Monsanto provides a match equal to at least 25% of the employee contribution.

5. At least 25 full-time employees and 25 part-time employees employed at the Site, with an annual payroll[1] of at least $2,500,000

6. The average (mean) annual wage for all employees working at the Site is, for the entire year, at least $44,000.

[1] "Payroll" as used in this Exhibit means the gross wages of all employees, as shown on W-2 forms.

ATTACHMENT 2

MEMORANDUM OF UNDERSTANDING BETWEEN PIMA COUNTY AND MONSANTO COMPANY

I. PARTIES

The parties to this Memorandum of Understanding (MOU) are Monsanto Company (Monsanto) and Pima County, Arizona (the County), hereinafter each referred to individually as a "Party" and collectively as "the Parties."

II. PURPOSE

The purpose of this MOU is to establish a relationship and dialogue between Monsanto and the County regarding the agricultural practices and stewardship undertaken by Monsanto with regard to its planned state-of-the-art greenhouse/manufacturing and distribution operation. This MOU is intended to advance public knowledge and foster public dialogue regarding agriculture and Monsanto's operations in Pima County.

III. RESPONSIBILITES

Insofar as is practical and to the extent consistent with all applicable laws and regulations, the Parties agree to the following:

A. Commission and Committee. At its discretion, Pima County will establish two community-based advisory bodies (the Pima County Agricultural Science Advisory Commission and the Pima County Agricultural Community Advisory Committee) that will each have a membership appointed by the County. Monsanto shall make a good faith effort to collaborate and cooperate with the Commission and the Committee in facilitating discussions regarding agriculture and Monsanto's operations in Pima County. The Commission and Committee shall meet at least quarterly (or as needed) and be guided by Pima County's standard procedures for Boards, Committees and Commissions and be subject to Arizona law governing open meetings and public records.

B. Voluntary Reporting. Monsanto will provide to the County quarterly a report regarding Monsanto's agricultural operation in Pima County. The report will contain the following, excluding business confidential information.

1. Restricted-Use Pesticides

a. A list of all agricultural-use restricted-use pesticides (by commercial product name and active ingredient) utilized at Monsanto's Pima County site.
b. The total quantity applied of each restricted-use pesticide product reported in pounds or gallons of active ingredient applied, and
c. The number of acres and/or square footage treated with each restricted-use pesticide and whether the application was within the greenhouse facility or outside the greenhouse facility.

2. A description of measures utilized by Monsanto in Pima County, including:

a. Restricted use-pesticide stewardship measures identified and undertaken by Monsanto.
b. Pesticide-use technologies utilized.
c. Annual water usage volumes and wastewater volumes at the Monsanto site in Pima County reported by gallons, as well as descriptions of water use reducing and wastewater reuse technology utilized at the site by the company.
d. Specific reports compiled annually of any hazardous waste spills or violation reported by Monsanto to any local, state or federal regulatory agencies.

C. Pesticide and Hazardous Material-Use Requirements. Monsanto will strictly adhere to all federal, state and Pima County laws and ordinances governing the use, handling and disposal of pesticides and hazardous materials.

D. Cooperation. The Parties will work cooperatively and in good faith to ensure appropriate and efficient communication in support of the objectives and purposes of this MOU. The Parties will also work cooperatively to achieve reasonable solutions to Monsanto's stewardship of its facility in Pima County and support the work of Pima County's Agricultural Science Advisory Commission and Pima County Agricultural Community Advisory Committee. Monsanto will consider any request by the County, directly or through the Commission or Committee, for information regarding its agricultural operations in the County to further these objectives and, if reasonable and scientifically justified, Monsanto will engage The University of Arizona to conduct specific research in an amount not to exceed $50,000 annually during the period Monsanto receives an FTZ property tax benefit.

E. Information Sharing. The Parties will share information, on a voluntary basis, with the intent to improve public understanding and education of agricultural practices, and to ensure the County and its Agricultural Advisory Commission and Committee are appropriately familiar with key aspects of agricultural practices at Monsanto's facility in Pima County.

F. Quarterly Reporting and Meetings. To achieve the objectives of this MOU, Monsanto will meet with County representatives and its Agricultural Advisory Committee and Commission no less than quarterly. Monsanto will provide quarterly reports at least two weeks prior to the regularly scheduled quarterly meeting that include the voluntary reporting measures set forth in Section III and a summary of other activities pursuant to this MOU. The Parties agree the quarterly meetings and reporting requirements will be reviewed after two years to modify, if appropriate, frequency requirements for meetings and reporting.

G. Education. Monsanto will provide, as reasonably requested and mutually agreed upon, educational opportunities to the County related to the operation of Monsanto's agricultural facilities located within Pima County.

IV. FINANCIAL TERMS

This MOU does not impose, or in any way require, any financial or monetary commitments from either Party. The Parties will, at all times, direct, manage and provide for their own participation in this MOU. Any work, projects, services or other activities carried out under

this MOU (and not specifically provided for in the terms of the MOU) involving the transfer of funds, property, services or anything of value will require a separate written agreement.

V. RIGHT OF TERMINATION

This MOU is effective on the last date affixed to the signature of the Parties and shall remain in effect for an initial period of 10 years, unless terminated earlier by either Party in accordance with this clause. Thereafter, this MOU may be extended for successive 10-year terms by the Parties by mutual written agreement. Either Party may terminate this MOU at any time. As a courtesy, a Party terminating this MOU shall make reasonable efforts to provide the other Party not less than 60 days' prior written notice of termination and the reason for such termination.

VI. MODIFICATION

Any modification or alteration of this MOU must be made by mutual agreement in writing and executed by an authorized representative of each Party.

VII. NO LEGAL RIGHTS, DUTIES OR OBLIGATIONS CREATED

Nothing in this MOU or its execution is intended to contradict or contravene any provision of law. The Parties' responsibilities and activities set forth in this MOU are strictly voluntary. Nothing in this MOU shall be construed as establishing a contract (or other legally-binding commitments, duties or obligations) requiring Monsanto or the County to provide money, goods or services of any kind to any legal entity. The Parties agree the responsibilities and activities set forth in this MOU are only applicable within Pima County and such responsibilities and activities have been specifically tailored to address issues unique to Pima County.

IN WITNESS WHEREOF, the parties hereto have executed this MOU this _____ day of _____, 201____.

Pima County, Arizona

By_____

Its_____

Date_____

Monsanto Company,
a Delaware Corporation

By_____

Its_____

Date_____

Attest:

_____
Robin Brigode, Clerk of the Board