

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
COCHISE COUNTY  
AND  
THE NATURE CONSERVANCY

CONCERNING MONITORING OF MILITARY PROTECTION EASEMENT

I. Recitals.

- A. On July 27, 2010, the Arizona Department of Military Affairs (DEMA) acquired title to a Military Protection Easement (the Easement) over 377 acres, more or less, of property located in Cochise County, Arizona. The Easement was recorded on August 9, 2010 in the records of Cochise County, Arizona as document number 2010-17968. A copy of the Easement is attached hereto as Exhibit A and incorporated herein by reference.
- B. The purpose of the Easement is to assure the Property will be used in ways that do not hamper the mission of Fort Huachuca. To that end, the Easement establishes certain Preservation Values that restrict potential uses of the Property.
- C. On August 4, 2010, DEMA assigned the Easement to Cochise County (the County), a political subdivision of the State of Arizona. The Assignment of Military Protection Easement (the "Assignment") was recorded on August 9, 2010 in the records of Cochise County, Arizona as document number 2010-17969.
- D. Pursuant to the Easement and the Assignment, the County is responsible for monitoring compliance with the Easement, including an annual inspection of the Property, and taking such actions as are reasonably necessary to preserve and protect the Preservation Values of the Property, including enforcement of the terms of the Easement.
- E. The Nature Conservancy, a District of Columbia, non-profit Corporation (TNC), has considerable expertise in monitoring similar easements. Moreover, TNC prepared a Conservation Easement Documentation Report for the Property, as well as an update to it prior to closing on the Easement.
- F. The County desires that TNC perform the monitoring duties under the Easement, and TNC desires to do so. The Nature Conservancy (TNC) has considerable expertise in inspecting and monitoring similar easements. Moreover, TNC prepared a Conservation Easement Documentation Report for the Property, as well as an update to it prior to closing on the Easement. The purpose of this

Memorandum of Understanding is to set forth the terms on which TNC will perform the monitoring and inspection duties.

II. Terms of Understanding.

- A. TNC will inspect the Property at least once annually on or about the anniversary date of the Easement to determine that the Property is not used for any of the Prohibited Uses (as set forth in the Easement), is used only for the Permitted Uses (as set forth in the Easement), and is preserved consistent with the Preservation Values.
- B. Upon inspection, TNC will deliver a written report to the County stating the results of the inspection, highlighting any possible noncompliance with the Easement. Copies of any such report will be delivered to the County Administrator and Chief Civil Deputy of the County Attorney.
- C. In the event that the County pursues an enforcement action, TNC will be available to provide documentation and testimony in support of such action.
- D. Since protecting the Preservation Values of the Property is consistent with its mission, TNC does not require compensation for performing the terms of this MOU. If TNC anticipates incurring extraordinary expenses that it believes should be reimbursed, TNC will request permission of the County to incur and be reimbursed for such expenses.
- E. Each party, its agents and employees shall act in an independent capacity and not as officers or employees or agents of the other in performing of this MOU.
- F. This MOU shall run for a period of one year and shall automatically renew at the end of that period unless either party gives notice to the contrary. This MOU may be terminated by either party upon written notice from either party, with or without cause.
- G. Representatives of the parties during the term of this Agreement are the following (provided, that the contact information for either party may be changed by written notice to the other party):

For Cochise County:

Britt Hanson  
Chief Civil Deputy  
Cochise County Attorney  
Drawer CA  
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For The Nature Conservancy:

Jody Daline  
Land Acquisition and Easement Manager  
The Nature Conservancy  
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Tucson, AZ 85750  
520/545-0186  
jdaline@tnc.org

**IN WITNESS WHEREOF** the parties hereto have executed this MOU as set forth below.

THE NATURE CONSERVANCY



Patrick Graham  
Arizona State Director

11-16-12  
Date

COCHISE COUNTY

Richard Searle, Chair, Board of Supervisors

Date