

Section A - Solicitation/Contract Form

PREAMBLE

COOPERATIVE AGREEMENT

BETWEEN

Cochise County Arizona

AND

Mission and Installation Contracting Command (MICC) – Fort Sam Houston

ON BEHALF OF

U.S. Army Environmental Command (USAEC)

CONCERNING

Army Compatible Use Buffers (ACUBs) in the vicinity of Fort Huachuca

Total Estimated Amount of the Agreement: \$10,000,000

Government Funds Obligated: See Article 7

Authority: 10 U.S.C § 2684a and 16 U.S.C. § 670c-1

This Cooperative Agreement (CA) is entered into between the United States of America, hereinafter called the Government, represented by the Mission and Installation Contracting Command (MICC) – Fort Sam Houston Grants Officer, and Cochise County, Arizona, herein after referred to as “the recipient”.

Section B - Supplies or Services and Prices

ITEM NO	SUPPLIES/SERVICES	EST . QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	CA in support of Fort Huachuca COST Army Compatible Use Buffer in the vicinity of Fort Huachuca 30 April 15 – 29 April 19 FOB: Destination		Job		\$10,000,000.00
				ESTIMATED COST	\$10,000,000.00

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## ARTICLE 1 - AUTHORITY

This Cooperative Agreement (CA) is executed under authority of 10 U.S.C. § 2684a (b)(1) and 16 U.S.C. § 670c-1.

## ARTICLE 2 – ORDER OF PRECEDENCE

2.1 This CA is subject to the laws and regulations of the United States. Any inconsistency or conflict in the terms and conditions specified in this CA shall be resolved according to the following order of precedence:

2.1.1 The Federal statute authorizing this award, or any other Federal statutes directly affecting performance of this CA.

2.1.2 Department of Defense Grant and Agreement Regulations (DoDGARs).

2.1.3 These general terms and conditions.

2.1.4 Other terms and conditions contained within the CA and any attached schedules.

## ARTICLE 3 – GENERAL DEFINITIONS

3.1 Agreement Administrator (AA): The Agreement Administrator has authority to administer CA's and, in coordination with the Grants Officer, make determination and findings related to delegated administrative functions (Specific POCs applicable to this ACUB are listed in Article 12).

3.2 Alternate Cooperative Agreement Manager (ACAM): The ACAM provides backup (i.e., assists and/or supports) the CAM. The ACAM is the Government's technical representative backup from USAEC charged with advising and updating the CAM on the Army Compatible Use Buffer (ACUB) project at Fort Huachuca.

3.3 Annual Report: The document which summarizes project progress and provides an accounting of funding and disbursements under the CA for each fiscal year to Grant Officer no later than 10 October.

3.4 Cooperative Agreement Manager (CAM): The CAM is the Government's technical representative from USAEC charged with the overall responsibility of management and guidance of the CA.

3.5 Grants Officer: The Grants Officer is the Government's principal point of contact for all administrative, financial or other non-technical issues arising under the Agreement.

3.6 Installation: The installation is a base, camp, post, station, yard, center or other activity under the jurisdiction of the Secretary of a Military Department. For purposes of the Agreement, this ACUB project is designed to buffer Fort Huachuca.

3.7 Parties: For purposes of this agreement, the parties include the MICC-FSH Grants Officer, and the Recipient.

3.8 Recipient: The recipient is an organization or other entity receiving assistance by grant or CA from a DoD Component. For purposes of this agreement, the Recipient is Cochise County, Arizona.

3.9 Recipient Program Manager (RPM): The RPM is the Recipient's official charged with the overall responsibility of management and guidance of the CA.

3.10 Technical Cooperative Agreement Manager (TCAM): The TCAM is the Government's technical representatives from USAEC/Fort Huachuca charged with advising and updating the CAM and ACAM on the ACUB project at Fort Huachuca.

#### **ARTICLE 4 – SUMMARY OF SCOPE/PURPOSE**

4.1 The primary purpose of this CA is to work with Cochise County to structure the acquisition, protection and management of property interests identified under this agreement. Specifically, Cochise County and the Army are collaborating to acquire and protect several parcels in the vicinity of Fort Huachuca in order to prevent incompatible land uses such as growth of residential and commercial development (increasing urbanization), and to preserve key native grasslands that are part of the contributing watershed which contains critical habitat for the endangered Huachuca Water Umbel (HWU) and Southwestern Willow Flycatcher (SWFL). Reducing future development and encroachment will reduce the competition for water resources in the area as well. Protecting water resources outside the fence is critical to maintaining the mission on Fort Huachuca. Specifically, the efforts anticipated under this CA are important to minimize overall water use through water conservation measures such as drought-tolerant landscaping, landscaping, low-flow fixtures, re-use, water harvesting, deed restrictions and other water conservation methods.

4.2 Final decisions and strategies will be the result of partnership decisions, including but not limited to, state and local government, Cochise County, Fort Huachuca, and others. Scope includes the prioritization, acquisition, protection and management of areas critical to support and sustain the military operational and training mission of the Army. Specifically, the CA will

serve to (i) sustain the military mission by preventing incompatible and/or limiting adjacent land uses that will negatively impact training realism and capability; (ii) preserve key native grasslands that are part of the contributing watershed which contains critical habitat for the endangered HWU and SWFL; and (iii) identify possible areas for stormwater recharge and construct stormwater recharge facilities and enhance water resource management.

## **ARTICLE 5 – COSTS**

5.1 This CA is a cost-share agreement with a requirement that can include cash, land owner donations, and in-kind services.

5.1.1 Notwithstanding the minimum, this is a best efforts agreement wherein Cochise County will leverage Army funds as well as other sources of funds identified by the recipient, including State and Federal agencies, to achieve the overall funding goal. All funds and in-kind services must be used to achieve project tasks set forth in this CA and attached SOW. If Cochise County chooses to provide in-kind services, the value of the services may be counted toward the cost-sharing requirement if those services are reasonably related to the pre-acquisition, acquisition or post-acquisition stewardship and management of an interest in real property and have been specifically agreed upon by the parties to this CA. Services may include staff time to accomplish tasks (including maintaining resource and parcel data relevant to the ACUB, negotiations with the landowner, negotiating and developing land transactions, landowner outreach, monitoring and enforcement of easements and/or restrictions on real property interests acquired, acquisitions of land interests through donation, etc.); legal services in connection with its efforts to acquire the property, and overhead costs specifically associated with working on acquisitions under this CA.

5.2 Expenditures by the Army under the CA will be subject to the availability of funds. No provision of this CA shall be interpreted to require the payment or obligation of funds by Fort Huachuca or the Army in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. If funds are available, the Army will pay for an agreed upon share of direct and indirect project costs after negotiation with the recipient.

5.2.1 Under certain, agreed upon circumstances, Cochise County may choose to (i) provide in-kind services (see 5.1.1 above) and/or (ii) exchange or donate an interest in real property.

5.3 Cochise County may solicit funds from third party sources to leverage the Army's contributions and support the purposes of this agreement. All funds solicited and obtained by Cochise County from any third party source outside the Department of Defense (DoD) (including non-DoD federal or state programs, donors and other non-governmental organizations) may be attributed to Cochise County as part of its agreed upon share of costs for specific interests in real property under this CA.

5.4 Types of costs (direct and indirect) associated with this CA.

5.4.1 Acquisition of identified parcels, either fee simple or lesser interest such as a conservation easement. Acceptable costs include: (i) the purchase price of the property interest, as well as any down payment and option consideration if not included in the purchase price; (ii) pre-

acquisition requirements such as contact and negotiation with landowners, travel and legal costs related to acquisitions of real estate interests, drafting of purchase and sale agreements, boundary surveys, title investigations and title reviews, mapping costs, appraisals, due diligence (e.g., environmental site assessments), preparation of deeds for transfer and other inspections or searches deemed necessary by Cochise County to accurately ascertain the value and condition of the realty or easement acquired; (iii) acquisition requirements, including the costs to close the transaction, title transfer taxes and taxes paid or triggered at purchase or sale (such as real property taxes paid at closing, compensating taxes, excise taxes, transfer taxes, documentary stamps, and taxes resulting from change in use), title insurance, escrow fees and recordation fees and other similar expenses that are attributed to the specific real estate acquisition; and, (iv) the direct and indirect cost of staff time to perform foregoing tasks. All acquisitions will be at or below fair market value as established by an appraisal in compliance with general federal appraisal standards.

5.4.2 Post-acquisition Stewardship and Management Costs under this agreement include: (i) the cost of regular monitoring, and, if necessary, enforcement of conservation easements acquired under this agreement; and, (ii) the cost of managing or restoring natural resources to meet the purposes of this agreement.

5.4.3 The costs associated with future management of each specific parcel encumbered pursuant to this CA. An amount equal to approximately 10% of the conservation easement's appraised fair market value will generally be assumed to be reasonable for purposes of calculating allocable future costs. Future costs must be directly attributable to Cochise County's obligations as holder of conservation easements and shall include baseline inventory of protected property, annual monitoring of easements for compliance, regular landowners contact, and, if necessary, enforcement of easement restrictions. All application of future costs shall be closely coordinated with the Agreement Administrator.

## **ARTICLE 6 – SERVICES**

Each party, to the extent feasible, will commence work towards accomplishment of project tasks using available resources upon the date of execution of this agreement and continue to do so for the duration of the period of performance or until all available funding is exhausted, whichever occurs earlier. If the recipient to this agreement is unable to provide such services in the absence of additional funding, the TCAM shall notify the AA via the CAM to determine whether there is a need to modify or amend this agreement.

## **ARTICLE 7 – FUNDING**

7.1 Funding Limitation. The maximum funding limitation for the Army is the amount specifically obligated by this CA or amendment/modification thereto.

7.2 Funding Allocation. Funding allocations to Cochise County will be made by administrative amendment/modification to this CA.

7.3 Funding Methods.

7.3.1 Advance Funds. If the recipient considers advance funds to be required, Cochise County must request the advance funds at least 60 days prior to the date needed for closing on real property interests under this CA.

7.3.1.1 The request for funds will include documentation supporting the request to include the anticipated closing date, acreage, location, appraised value of parcel or easement, amount of Army funding requested, partner share (if over the minimum) and nature or interest being acquired.

7.3.1.2 The recipient acknowledges that they can make no binding commitment dependent on Army funds until funds are obligated against the CA and the Army has authorized expenditure of such funds for the specific property interests to be acquired. Cochise County may engage landowners in negotiations to develop preliminary agreements in principle, but shall not enter a binding agreement for purchase and sale of such interest without first receiving: (1) concurrence of the Army; (2) assurance that sufficient funds are available; and (3) notice to proceed.

7.3.2 When not using EFT/WAWF, the Army goal is to reimburse the recipient for expenses incurred within 45 days of invoice receipt for approved ACUB program costs (see Article 8 for WAWF specific details). In the event that a potential transaction requires expedited payment, Cochise County should submit the request through the Agreement Administrator. Cochise County's request should include justification to support the expedited payment.

7.3.3 All Army funds to be contributed through this CA shall be considered obligated upon signature of the Grants Officer.

7.4 The scope of the agreement, as documented in Attachment 1, defines the requirements of the Army and the desirable projects/parcels for acquisition of interests under the ACUB program. The Army acknowledges that the period of time that may elapse between when federal funds are disbursed to Cochise County by the Army and the date of "closing" on approved projects under this Agreement can be in excess of seven (7) business days. The Army also acknowledges that Cochise County may not have any control over the time involved in closing but requires the recipient to make every effort to minimize the amount of time that federal funds are held prior to closing.

## **ARTICLE 8 – PAYMENT**

8.1 Payment will be made using Wide Area Workflow (WAWF). The WAWF system is the method to electronically process payment requests and validate invoices/receiving reports.

8.2 WAWF training is also available on the webpage identified below. The recipient is encouraged to follow the training instructions of the WAWF Web-Based Training Course and use the Practice Training Site before submitting payment requests through WAWF. Both can be accessed by selecting the "Web Based Training" link on the WAWF home page at <https://wawf.eb.mil>.

8.3 The recipient shall submit payment requests electronically using WAWF at the website: <https://wawf.eb.mil>. WAWF is a secure site that facilitates electronic payment. The recipient shall self-register at the website and coordinate questions and/or issues with the AA. Recipients may also need to register on the SAM website (<https://www.sam.gov/portal/public/SAM/>).

8.4 In addition to the AA, you may contact the Ogden, UT Help Desk for technical issues with the WAWF site. The Help Desk is at [cscassig@csd.disa.mil](mailto:cscassig@csd.disa.mil) or the following telephone numbers:  
Toll Free: (866) 618-5988  
Commercial: (801) 605-7095                      Commercial FAX: (801) 605-7453

8.5 The recipient shall use the information in the following table to fill in applicable fields in WAWF when creating payment requests and receiving reports in the system:

<i>Field Name in WAWF</i>	<i>Data to be entered in WAWF</i>
Pay Official DoDAAC <sup>1</sup>	HQ0490
Issue By DoDAAC	W9124J
Admin DoDAAC	W9124J
Inspect By DoDAAC	W81W25
Service Approver (DoDAAC)	W81W25
Service Acceptor (DoDAAC)	W81W25

<sup>1</sup> DoDAAC is a six position code that uniquely identifies a unit, activity, or organization.

#### 8.6 Advance Payment.

8.6.1 The recipient may receive advance payments under this CA. If unable to use WAWF for your advance payment, the recipient shall submit a Standard Form 270 (SF 270) "Request for Advance or Reimbursement" invoice to the CAM by email in accordance with 7.3.1 (above). The recipient must request advance funds at least 60 days prior to the date needed for closing on parcels. The request for funds will include the following supporting documentation: property identification (name), estimated closing date, acreage, location/priority area, appraised value of parcel or easement, amount of Army funding requested, nature of interest being acquired, and benefit to mission. Advance payments must be limited to the minimum amount needed and be timed to be as close as is administratively feasible to the actual disbursements required in the performance of this agreement.

8.6.2 For the purpose of this CA, Advance Payments are treated differently than Lump Sum Payments (see paragraph 8.7 for Lump Sum Payments). All advance payments shall be deposited in interest bearing accounts unless the best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances, or the depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash balances.

8.6.3 Interest earned on Advance Payments valued over \$250 shall be remitted annually to DFAS Indianapolis, HQ0490, 8899 E. 56<sup>th</sup> Street, Indianapolis, IN 46249-3800 (DFAS-IN.97.VPIS@DFAS.MIL). A copy of the transmittal letter stating the amount of interest remitted shall be sent to Mission and Installation Contracting Command, Grants Officer, Environmental Contracting Division, ATTN: Veronica Romero, 2205 Infantry Post Road, Fort Sam Houston, TX 78234-1361. After completion and/or closeout of effort against this CA, residual or unliquidated advance payment funds shall be coordinated with the Grants Officer for disposition.

8.6.4 The funds provided to recipients by advance are to be used solely for the items of allowable acquisition costs incurred in the performance of this CA as set forth in the terms and conditions specified in Articles 1 through 18 and the SOW.

8.6.5 The recipient agrees to minimize, to the extent possible, the time elapsing between the transfer of funds from the U.S. Treasury and the use of those funds by the recipient for approved purposes under this CA.

8.6.6 The recipient shall make records and accounts pertaining to this CA available for inspection by auditors and other authorized Federal Government officials as required.

8.6.7 Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.

## 8.7 Lump Sum Payment.

8.7.1 Application of Lump Sum Payment. This CA addresses the use, development, preservation, protection and/or restoration of real property in the vicinity of Fort Huachuca. The primary objective of the CA is to preserve habitat on the property in a manner that: (i) is compatible with environmental requirements; (ii) may eliminate or relieve environmental restrictions that impact local military training, testing or operations; and (iii) protects potential clear zone areas from use or encroachment that is incompatible with the mission of Fort Huachuca. To that end and when determined appropriate by the Grants Officer, the Government may make a Lump Sum payment of an amount intended to cover the future costs of natural resource management, monitoring and enforcement to the recipient and permit the recipient to place the sum in an interest bearing account with the interest earned applied to the same purpose that the principal was authorized to fund (i.e., furthers the specific purpose of the principal).

8.7.2 Supporting Documentation peculiar to Lump Sum Payments. Prior to Government approval of a lump sum payment, the CAM/ACAM/TCAM must provide the Grants Officer the specific management objectives (and associated/projected milestone dates) expected to be covered by the lump sum as well as any specific limitations sought by the parties as a result of these objectives.

8.7.3 Final Disposition. Upon completion or closure of the effort for which the lump sum was established or if it is determined that continued management under this CA be impractical, any

remaining unliquidated funding (to include interest) shall be coordinated with the Grants Officer for specific disposition instructions and remittance to DFAS Indianapolis, HQ0490, 8899 E. 56<sup>th</sup> Street, Indianapolis, IN 46249-3800 ([DFAS-IN.97.VPIS@DFAS.MIL](mailto:DFAS-IN.97.VPIS@DFAS.MIL)). In the event that funds are remitted, a copy of the transmittal letter stating the specific amount of remittance shall be sent to Mission and Installation Contracting Command, Grants Officer and Agreement Administrator.

8.8 Reimbursable Payments: The recipient may receive payments via reimbursement under this CA via WAWF. If unable to file for reimbursement under WAWF, the recipient shall submit a SF 270 "Request for Advance or Reimbursement" invoice to the CAM. After verification of progress by the CAM, the SF 270 vouchers will be forwarded to the AA listed in Article 13. The AA will ensure the SF 270 is complete and all accounting and appropriation data is included, and prepare the Certified Receiving Report for approval of the payment. They will then forward the relevant data to DFAS for payment within ten (10) calendar days of receipt of the voucher. Payments will be made via EFT within 30 calendar days of receipt of transmittal (i.e., receipt of billing) unless the Government believes the request to be improper or unallowable. Supporting documentation, including vouchers, deed documents or closing statements, for actual expenditures shall be submitted to the CAM for all reimbursable expenses, including those originally made as advance payments.

#### 8.9 Financial Status Reports.

8.9.1 The Recipient(s) shall submit a Standard Form 425, Federal Financial Report, to the Agreements Office on an annual basis, within 30 days of the anniversary of this CA.

8.10 Audit Procedures. The Recipient shall ensure that an audit shall be conducted annually in accordance with the following subparagraphs (see also 32 CFR 32.26 and OMB Circular A-133) and provided to the Agreements Administrator.

8.10.1 Selection of Auditors, Scope of Audit, and Audit Objectives. An independent auditor herein defined as a public accountant or government auditor who meets the standards specified in the Government Auditing Standards issued by the U.S. Comptroller General, shall review and report Recipient expenditures of federal funds. The auditor shall determine whether:

- (i) The financial statements of the Recipient present fairly its financial position and the results of its operations in accordance with generally accepted accounting principles;
- (ii) The Recipient has an internal control structure to provide reasonable assurance that it is managing Federal awards in compliance with applicable laws and regulations, and has in place adequate controls to ensure compliance with the laws and regulations that could have a material impact on the financial statements;
- (iii) The Recipient has complied with laws and regulations that may have a direct and material effect on its financial statements on each major Federal program;
- (iv) The Recipient is operating in compliance with its established policies and procedures; and
- (v) The Recipient has complied with all requirements of this Agreement.

8.10.2 Records. The Recipient shall maintain adequate records to account for Federal funds received, as well as cost share elements, under this Agreement. Upon completion or termination,

whichever occurs earlier, the Recipient shall furnish to the Agreement Administrator a copy of the final financial report. The Recipient's relevant financial records are subject to examination or audit by the Government for a period not to exceed three (3) years after expiration of the term of this Agreement. The Agreement Administrator or designee shall have direct access to sufficient records and information of the Recipient, to ensure full accountability for all funding under this Agreement. Upon prior written notice such audit, examination, or access shall be performed during business hours on business days and shall be subject to the security requirements of the audited party. Cochise County shall have a minimum of 60 and a maximum of 90 days from the date of written notice to respond.

8.11 Program Income. For the purpose of this cooperative agreement, the source of the recipient's program income does not include interest earned on Federal funds (a.k.a. partner share). Program income is defined in 2 CFR 200.80 and 2 CFR.307.

8.12 To the extent available, the non-Federal entity must disburse funds available from Program Income before requesting additional cash payments.

## **ARTICLE 9 – GENERAL PROVISIONS**

9.1 Successors and Assigns. This CA may not be assigned by a party without the express written consent of the other parties. All covenants made under this CA shall bind and inure to the benefit of all successors and assigns of the parties whether or not expressly assumed or acknowledged by such successors or assigns.

9.2 Execution. This CA is executed based upon a duly authorized representative of all the parties signing the CA. This CA may be executed in several counterparts, each of which shall be deemed an original.

9.3 Administrative and Cost Principles.

9.3.1 The following administrative and cost principles, as applicable, effective the earlier of a) the start date of this CA, or b) the date on which the recipient incurs costs to be assessed by the CA, are incorporated as part of this CA by reference:

9.3.1.1 Office of Management and Budget Guidance for Grants and Agreements, 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

9.3.1.4 DoD Grant and Agreement Regulations (DoD 3210.6-R). The applicable uniform policies and procedures for Grants and CA's awarded under DoD components.

9.3.2 Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) as applicable to this agreement is hereby incorporated by reference. For purposes of

the STURAA and for all purposes under this CA, all transactions under this CA shall be voluntary transactions with willing sellers only. The Army acknowledges and agrees that (i) no specific site or property needs to be acquired, (ii) any real property interest to be acquired under this CA is not part of an intended, planned or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits, and (iii) neither the Government nor the recipient will acquire the property pursuant to this CA in the event negotiations fail to result in an amicable agreement. For real property interests to be acquired by recipient or other non-governmental eligible entity, the recipient may follow the procedures set forth under the STURAA for voluntary transactions by a person that does not have authority to acquire property by eminent domain.

9.3.3 Retention and Examination of Records. Financial records, supporting documents, statistical records and all other records or microfilm copies pertinent to this agreement shall be retained for a period of three years.

9.3.4 Sub-awards, Contracts and Sub-contracts. The applicable federal cost principles and requirements for sub-awards, contracts and subcontracts under this agreement shall be those otherwise applicable to the type of organization receiving the sub-award contract or sub-contract.

9.4 National Policy Requirements and similar provisions. Cochise County agrees that no person shall be denied benefits or otherwise be subjected to discrimination in connection with, performance under this CA, on the grounds of race, religion, color, national origin, sex or handicap. By signing this CA, the recipients assure that they will comply with applicable provisions of the following national policy requirements:

9.4.1 Executive Order 11246, Employment discrimination and equal opportunity (41 CFR, part 60).

9.4.2 Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d, et seq.), as implemented by DoD regulations at 32 CFR part 195.

9.4.3 Age Discrimination Act of 1975 (42 U.S.C. § 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.

9.4.4 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.

9.4.5 Clean Air Act (42 U.S.C. § 7401, et. Seq.) and Clean Water Act (33 U.S.C. § 1251, et. seq.), as implemented by Executive Order 11783 [3 CFR, 1971-1075 Comp., p. 799] and Environmental Protection Agency rules at 40 CFR part 15.

9.4.6 National Environmental Policy Act (NEPA, at 42 U.S.C. § 4231, et. seq.). In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.

9.4.7 National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et. seq.).

9.4.8 Lobbying.

9.4.8.1 Cochise County agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; and, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

9.8.8.2. The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 C.F.R. pt. 28) to implement the provisions of 31 U.S.C. § 1352, is incorporated by reference

9.4.9 Officials Not To Benefit. No member of or delegate to Congress, or resident commissioner, shall be admitted to any share any part of this agreement or to any benefit arising from it, in accordance with 41 U.S.C. § 22.

9.4.10 Drug-Fee Work Place.

9.4.10.1 Cochise County agrees that it will comply with the provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. § 701 et seq.) and maintain a drug-free workplace.

9.4.10.2 The Final Rule, Government-Wide Requirements for Drug-Free Workplace (Grants), issued by the Office of Management and Budget and the Department of Defense (32 C.F.R. pt. 28, Subpart f) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference, and Cochise County covenants and agrees to comply with all their provisions, including any amendments to the Final Rule that may hereafter be issued.

9.4.11 Trafficking Victims Protection Act of 2000, as amended (TVPA) (22 U.S.C. § 7104(g)) Section 106(g) states: “any grant, contract or cooperative agreement provided or entered into by a Federal department or agency under which funds are to be provided to a private entity, in whole or in part, shall include a condition which authorizes the department or agency, to terminate the grant, contract or cooperative agreement, without penalty, if the grantee or any sub-grantee, or the contractor or subcontractor (i) engages in severe forms of trafficking in persons or has procured a commercial sex act during the period of time that the grant, contract or cooperative agreement is in effect, or (ii) uses forced labor in the performance of the grant, contract, or cooperative agreement.”

9.5 Certifications. By signing this agreement, the recipient endorses that the following certifications have been provided: Appendix A to 32 CFR Part 25 regarding debarment, suspension and other responsibility matters; Appendix C to 32 CFR Part 25 regarding drug free workplace requirements; Appendix A to 32 CFR Part 28 regarding lobbying. The above certifications do not apply to transactions in real property interests. They apply only to any other

contracts written as a result of this agreement, which are funded with federal funds obligated under this agreement.

9.6 Government Furnished Equipment. No Government Furnished Property/Equipment/Material will be provided unless negotiated and specifically added to this CA.

## **ARTICLE 10 – AGREEMENT ADMINISTRATION**

Amendments or modifications to this agreement shall follow these procedures: The party who wishes to amend this agreement shall, upon reasonable notice of the proposed amendment to the other parties, confer in good faith with the other parties to determine the desirability of the proposed amendment. Amendments shall not be effective until a written amendment is signed by the agreement signatories, or their successors.

## **ARTICLE 11 – TERM OF THE AGREEMENT, SUSPENSION, & TERMINATION**

11.1 Term of the Agreement: The term of this Agreement shall commence upon the effective date of this agreement and continue for five (5) years or sixty (60) months.

11.1.1 Either party, upon 180 days notice to the other signatories to this agreement, may terminate this agreement. In the event of termination, all funds provided by the Army and not expended shall be returned to the Army. 32 CFR 32.61 and 32.62 address the suspension and termination of this agreement.

11.1.2 This CA can be extended if amended (see para 11.2).

11.2 Amendments. This CA can be amended by the mutual consent of the Parties. All except administrative amendments/modifications shall be executed in writing and signed bilaterally by each party to this CA. Administrative amendments may be unilaterally executed by the Grants Officer.

11.2.1 This CA constitutes the entire agreement between the parties as to its scope and subject matter. All prior negotiations, discussions and understandings concerning its scope and subject matter are by, and incorporated into, this agreement.

11.2.2 Change of Circumstances. Each party shall promptly notify the other party of any legal impediment, change of circumstances, pending litigation, or any other event or condition that may adversely affect the party's ability to carry out any of its obligations under this CA.

11.3 Disagreements regarding issues concerning assistance agreements between the recipient and the Grants Officer shall, to the maximum extent possible, be resolved by negotiation and mutual agreement at the Grants Officer level. If agreement cannot be reached, the use of alternative dispute resolution (ADR) procedures may either be agreed upon by the Government and the recipient in advance of the award or may be agreed upon at the time the parties determine to use ADR procedures. If the parties cannot agree on the use of ADR procedures, the recipient can submit, in writing, a disputed claim or issue to the Grants Officer. The Grants Officer will

consider the claim or disputed issue and prepare a written decision within 60 calendar days of receipt. The Grants Officer decision will be final; however, the Recipient may appeal the decision within 60 days after receipt of such notification. Appeals will be resolved by the Grant Appeal Authority (Head of the Contracting Activity). The decision by the Grant Appeal Authority will be final and not subject to further administrative appeal. However, the recipient does not waive any legal remedy, such as formal claims, under Title 28 United States Code 1492, by agreeing to this.

## ARTICLE 12 – POINTS OF CONTACTS

### 12.1 Agreements Office

Mission and Installation Contracting Command – Fort Sam Houston  
Environmental Contracting Division  
Grants Officer, Veronica A. Romero  
2205 Infantry Post Road  
JBSA Fort Sam Houston, TX 78234-1361  
Phone: (210) 466-2131  
Email: veronica.a.romero.civ@mail.mil

Agreement Administrator: Christopher A. White  
2205 Infantry Post Rd  
JBSA Fort Sam Houston, TX 78234-1361  
Phone: (210) 466-2135  
Email: Christopher.a.white.civ@mail.mil

### 12.2 Payment Office

Defense Finance Accounting Service  
DFAS Indianapolis  
HQ0490  
8899 E. 56<sup>th</sup> Street, Indianapolis, IN 46249-3800  
[DFAS-IN.97.VPIS@DFAS.MIL](mailto:DFAS-IN.97.VPIS@DFAS.MIL)

### 12.3 Recipient Program Manager (RPM)

\_\_\_\_\_, Trustee  
Cochise County, Arizona  
Address \_\_\_\_\_  
Phone Number \_\_\_\_\_  
email address \_\_\_\_\_

### 12.4 Technical Cooperative Agreement Manager (TCAM)

Dawn R. Rohr  
Natural Resource Manager Branch Chief

Fort Huachuca, TX 79916  
(520) 533-1867  
dawn.r.rohr.civ@mail.mil

#### 12.5 Cooperative Agreement Manager (CAM)

Mr. Chris Leach  
US Army Environmental Command  
Environmental Planning Branch  
2450 Connell Road  
JBSA, Fort Sam Houston, TX 78234  
210-466-1606  
christopher.w.leach2.civ@mail.mil

#### 12.6 Alternate Cooperative Agreement Manager (ACAM)

Ms. Susan James  
US Army Environmental Command  
Environmental Planning Branch  
2450 Connell Road  
JBSA, Fort Sam Houston, TX 78234  
210-466-1602  
susan.v.james.civ@mail.mil

### **ARTICLE 13 – ENTIRE AGREEMENT**

This agreement inclusive of all attachments constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes any prior understandings or written or oral agreement relative to said matter.

### **ARTICLE 14 – WAIVER OF RIGHTS**

Waiver of any requirement contained in this agreement shall be by mutual agreement of the parties hereto. All waivers shall be reduced to writing and a copy of the waiver shall be provided to each party. Failure to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any rights provided herein or by law, shall not be deemed a waiver of any rights of any party hereto.

### **ARTICLE 15 – LIABILITY**

No party to this agreement shall be liable to any other party for any property that the other party consumed, damaged, or destroyed in the performance of this agreement, unless it is due to the negligence or misconduct of the party or an employee or agent of the party.

**ARTICLE 16 – SEVERABILITY**

If any clause, provision or section of this agreement shall be held illegal or invalid by any court, the invalidity of such clause, provision or section shall not affect any of the remaining clauses, provisions or sections herein and this agreement shall be construed and enforced as if such illegal or invalid clause, provision or section had not been contained herein.

**ARTICLE 17 – FORCE MAJEURE**

Neither party shall be in breach of this agreement for a failure of performance caused by any event beyond its reasonable control and not caused by the fault or negligence of that party. In the event such a force majeure event occurs, the party unable to perform shall promptly notify the other party and shall in good faith maintain such partial performance as is reasonably possible and shall resume full performance as soon as is reasonably possible.

**ARTICLE 18 – NOTICES**

All notices and prior approvals required hereunder shall be in writing and shall be addressed to the parties identified in Article 12.

**RECIPIENT**

**GRANTS OFFICER**

Name  
Title  
Company

Veronica A. Romero  
Grants Officer  
Mission and Installation Contracting  
Command – Fort Sam Houston

By See signature on SF 26 cover page

By See signature on SF 26 cover page

Date See date on SF 26 cover page

Date See date on SF 26 cover page

## **ATTACHMENT 1 – STATEMENT OF WORK (SOW)**

### **1.0 INTRODUCTION**

1.0.1 This Agreement is entered into between the United States of America, hereinafter called the Government, represented by the U.S. Army Contracting Command, Mission and Installation Contracting Command (MICC), and Cochise County, Arizona, hereinafter referred to as the Recipient, pursuant to and under U.S. Federal Law.

1.0.2 Fort Huachuca, with the concurrence of the Department of the Army has determined that it is in the best interest of the Army to take steps necessary to create the Army Compatible Use Buffers (ACUBs) for the protection of open lands and other natural resources to avoid or minimize potential adverse impacts to Fort Huachuca's military mission.

1.0.3 The development of lands in the vicinity of Fort Huachuca for incompatible purposes will result in conflicts and likely land use restrictions adversely impacting necessary military activities. ACUBs preserving open lands and natural resources near Fort Huachuca will lessen land-use restrictions on military lands and programs.

1.0.4 A significant and necessary element of ACUBs is the limiting of and planned management of residential or commercial development of properties adjacent to or in the vicinity of Fort Huachuca. Management of such development can be achieved by acquiring permanent conservation easements or other land use controls that restrict development of open lands and conserve natural resources adjacent to or in the vicinity of Fort Huachuca. These land use actions will restrict development of private lands but allow for continued private ownership and may permit compatible open space uses such as, but not limited to, ranching, utility infrastructure, stormwater recharge facilities, and passive outdoor low intensity recreation.

1.0.5 Cochise County certifies and represents that it is a political subdivision of the State of Arizona, established under the laws of the State of Arizona and authorized to conduct business in the State of Arizona. In accordance with 10 U.S.C. § 2684a (b) (2), the Army determines that a stated organizational purpose of Cochise County is the conservation and preservation of land and natural resources, and water conservation.

1.0.6 Cochise County's mission is to minimize overall water use through water conservation measures such as drought-tolerant landscaping, low-flow fixtures, re-use, water harvesting, deed restrictions and other water conservation methods. Cochise County, thus, is committed to working with Fort Huachuca to preserve water resources, open space and natural resources near Fort Huachuca for the benefit of the residents of surrounding communities and the State of Arizona and to avoid or minimize the potential for adverse impacts to Fort Huachuca's military mission.

1.0.7 Cochise County officials and employees have the proven expertise to encumber private lands with permanent conservation easements, and to work collaboratively with private landowners and public agencies to develop land use plans that provide for land uses that are consistent with such easements.

### **1.1 BACKGROUND**

1.1.1 Intensive uses of lands adjacent to Fort Huachuca and other military installations have resulted in a threat of curtailment of significant training functions or other mission activities at Fort Huachuca and elsewhere. The Department of the Army has advised installations on the creation of ACUBs through issuance of Memorandum, Office of the Assistant Chief of Staff for Installation Management, dated 24 February 2012, subject: Interim Army Implementation Guidance for Encroachment Authorities, which is incorporated herein by reference. The scope of this memorandum authorizes installations through the Head of Contracting Activity to execute CA with eligible entities for the entity's acquisition of land or an interest in land and/or water rights for the creation of ACUBs.

1.1.2 Many promising concepts and strategies for development of ACUBs have been developed by the Department of the Army and private conservation organizations. They include the purchase of permanent conservation easements restricting inappropriate land uses, providing for compatible open space land uses, and engaging local communities in land use planning efforts. Any funding of these efforts is, of course, subject to the availability of funding.

1.1.3 Successful development of ACUBs is dependent on:

1.1.3.1 Identification of open lands for protection;

1.1.3.2 Acquisition by an eligible entity, through a voluntary purchase or donation by a landowner, of permanent conservation easements or other permanent land use restrictions limiting inappropriate land uses in the vicinity of an installation; and

1.1.3.3 Engagement of local communities, landowners, and public agencies in the identification and promotion of compatible land uses on protected properties.

1.1.4 There is continuing urgency in implementing an ACUB at Fort Huachuca that is underscored by the rapid development of residential and commercial land uses on properties adjacent to Fort Huachuca. There are private parcels of land along the boundaries of Fort Huachuca that would not only provide important open space resources to local residents, but also would serve to buffer the installation from rapidly expanding incompatible land uses. There are many opportunities to promote continued ranching, grazing, and protection of water quality, watersheds, and low impact outdoor recreation opportunities on much of these lands. Both Cochise County and Fort Huachuca have determined that each encumbrance will be consistent with their mission objectives. These actions will support both the preservation of open space resources as well as increase the flexibility of the military mission at Fort Huachuca.

## 1.2 OBJECTIVES

1.2.1 Support the military missions at Fort Huachuca through elimination or reduction of incompatible land uses on properties adjacent to Fort Huachuca. Meeting training needs of Fort Huachuca is the primary goal of this agreement.

1.2.2 Support the long-term sustainability of the military mission of Fort Huachuca by avoiding development of adjacent lands for incompatible use.

1.2.3 Conserve significant sections of open lands near Fort Huachuca for the purposes of encouraging continued ranching, grazing, protection of water quality and watersheds, and low impact outdoor recreation opportunities on these lands. This will be accomplished by encumbering private property land uses in the vicinity of Fort Huachuca with permanent conservation easements or similar permanent land use restrictions to avoid the incompatible development of high priority land parcels. The lands support ACUB development as well as the conservation objectives listed above.

## 1.3 AUTHORITY

1.3.1 Cochise County and the U.S. Army enter into this CA under authority 10 U.S.C. §2684a. It is also entered into pursuant to the provisions of the Sikes Act, 16 U.S.C. § 670c-1, as amended. This action protects against conflicts between residential communities and Fort Huachuca that could result in training restrictions on military training ranges.

1.3.2 This CA is also executed by and between the U.S. Army and Cochise County to implement and achieve the purposes set forth in Memorandum, Office of the Assistant Chief of Staff for Installation Management, dated 24 February 2012, subject: Interim Army Implementation Guidance for Encroachment Authorities.

1.3.3 Cochise County is an eligible entity as defined in 10 U.S.C. 2684a (b) (1).

1.3.4 The Army has determined that a stated organizational purpose of Cochise County is the conservation and preservation of land and natural resources, and water conservation. Cochise County's mission is to minimize overall water use through water conservation measures such as drought-tolerant landscaping, low-flow fixtures, re-use, water harvesting, deed restrictions and other water conservation methods. Cochise County, thus, is committed to working with Fort Huachuca to preserve open space adjacent to or in the vicinity of Fort Huachuca for the benefit of the residents of surrounding communities, the State of Arizona, and to avoid or minimize potential impacts to Fort Huachuca's mission. Cochise County has the proven expertise to encumber private lands with permanent conservation easements or other land use restrictions, and to work collaboratively with private landowners and public agencies to develop land use plans that provide for land uses that are consistent with such land use restrictions.

1.3.5 In accordance with the definitions and requirements of the Department of Defense Grant and Agreement Regulations (DoDGARs), a CA, as opposed to a procurement contract or grant, is the appropriate instrument for the proposed action, since the established purpose and objective is to provide assistance to Cochise County to stimulate and support a public purpose and the Government intends to participate substantially in the effort. In particular, the Government will remain instrumental in working with Cochise County to structure the acquisition, protection and/or management of the property interests acquired under this agreement for the achievement of the public purposes of the CA.

## 1.4 DIRECT AND INDIRECT PROJECT COSTS INCLUDE

1.4.1 Acquisition of identified parcels, either fee simple or a lesser interest such as, but not limited to, conservation easements. Acquisitions will be at or below Fair Market Value as established by an appraisal substantially equivalent to federal appraisal standards (Yellow Book).

1.4.2 Recordation costs, title transfer taxes, and other costs associated with transferring and recording deeds.

1.4.3 Pre-acquisition costs including but not limited to landowner negotiations, travel, legal services related to acquisitions of real estate interests, appraisals, title investigations, mapping costs, due diligence, and title review and other inspections or searches deemed necessary by Cochise County to accurately ascertain the value and condition of the realty or easement acquired.

1.4.4 The costs associated with future management of each specific parcel encumbered pursuant to this CA. An amount equal to approximately 10% of the conservation easement's, or other real property interest's, appraised Fair Market Value will generally be assumed to be reasonable for purposes of calculating allocable future costs. Future costs must be directly attributable to Cochise County's obligations as holder of the real property interest and shall include baseline inventory of protected property, annual monitoring of easements for compliance, regular landowner contact, design and construction of water recharge facilities with credit for recharge being attributed to Fort Huachuca under the Endangered Species Act, and/or, if necessary, enforcement. Cochise County shall coordinate with the TCAM prior to accrual of costs associated with the future management of any parcel.

### 1.5 COCHISE COUNTY PROJECT TASKS

1.5.1 Cochise County will establish contact with the owners of priority parcels designated by the CA or as otherwise contained in an approved ACUB proposal. Cochise County will work with Fort Huachuca to set priorities and develop an ACUB acquisition strategy that is appropriate for the long term goal of meeting the purpose of the CA. Priorities may be re-evaluated upon development of other compelling relevant information. Such acquisition must be supported by concurrence of Fort Huachuca in the form of a written Notice to Proceed to ensure that the terms support the military mission while contributing to the identified open space objectives. The strategy shall be for Cochise County to provide for acquisition of the identified parcels in fee simple or for acquisition of a lesser interest, such as a conservation easement, or purchase of development rights. If Cochise County and other interested parties secure an option to purchase a property interest or otherwise reach an agreement in principle for the purchase of a real property interest, Cochise County will perform due diligence and confer as set forth below prior to final negotiations for the acquisition and execution of a purchase contract. This will include, at a minimum:

1.5.1.1 Appraisal of the interest being acquired to establish Fair Market Value using methods and standards substantially equivalent to 42 U.S.C. § 4651, to establish a Fair Market Value of the real property interest to be acquired.

1.5.1.2 An environmental site assessment (ESA) that complies with the requirements of 42 U.S.C. § 9601(35)(B)(i) and uses methodologies consistent with the latest American Society for Testing and Materials (ASTM) Standard E-1527 or some lesser documented environmental assessment provided Cochise County and the Army agree that a more thorough level of due diligence is not necessary. Based on this assessment, Cochise County and Fort Huachuca will determine whether additional field investigations of soil, sediment, surface water, and other environmental media are warranted;

1.5.1.3 A boundary survey of the property interest being acquired, as necessary.

1.5.1.4 A title search of the property to determine any possible flaws in title require correction by the owner prior to acquiring the property interest.

1.5.2 Cochise County agrees to provide to Fort Huachuca all data, reports, investigations or determinations relevant to the property. This documentation shall be free of any disclosure restriction unless required by the real property owner to be held in confidence in order to gain access to the property and then only to the extent necessary to protect data and information only obtainable on the real property itself. The confidential nature of any information shall not prevent its delivery to Fort Huachuca for use within the U.S. government. Such confidential information shall be deemed to be subject to the Trade Secrets Act, 18 USC 1905, which makes its improper release by a Government employee a criminal offense. Confidential information will be free of any restriction if the owner sells a fee simple interest pursuant to the goals of this CA.

1.5.3 Once the due diligence is completed and Cochise County is satisfied: (i) that the acquisition can occur within a reasonable range of the appraised Fair Market Value, (ii) that no environmental hazards requiring remediation have been discovered by an environmental assessment on the site, and (iii) that from the title due diligence there are no encroachments or other issues that must be cleared in order to obtain title insurance, Cochise County will confer with Fort Huachuca to develop a negotiation strategy and establish the costs for purchase of the subject property interest.

1.5.4 Once Cochise County and the landowner agree on a price at or below the Fair Market Value of the real property interest to be acquired, Cochise County shall invoice the Army in advance of executing any final binding

real property transaction for the Army share and, when funds are received, promptly finalize the transaction. This invoice shall indicate all costs incurred by Cochise County in execution of the transaction and any matching funds or in-kind services provided by Cochise County.

1.5.5 If Cochise County and Fort Huachuca jointly identify other parcels of property that would meet the purposes and objectives of this agreement, Cochise County agrees, either after addition and approval of those parcels to the ACUB program through the ACUB approval process or by amendment of the CA, to take necessary steps to acquire an agreed upon interest in such property in accordance with the procedures set forth in paragraph 1.5.

1.5.6 Any parcel either encumbered through a conservation easement, other permanent real property restriction, or purchased in fee simple pursuant to this CA shall be monitored and enforced by Cochise County for the conservation purposes set forth in this agreement, and implemented according to the terms of the real property documents. Fort Huachuca and the Army will not be responsible for monitoring of any property, or interest therein, acquired under this agreement for compliance with conservation purposes. Cochise County's obligation under this paragraph shall survive termination of this CA.

1.5.7 Cochise County will conduct any and all negotiations with owners of all parcels proposed for acquisition or encumbrance. Cochise County shall involve all parties to this agreement in development of any conservation easement, deed provision or other property transfer document and obtained such parties concurrence before finalizing any transaction.

1.5.8 Prior to making an offer to the landowner, Cochise County shall provide the landowner/seller with the appropriate notifications in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to the extent applicable.

## 1.6 DELIVERABLES

1.6.1 Annual or more frequent reports of the progress made toward project tasks in paragraph 1.5 above shall be submitted to the USAEC in coordination with Fort Huachuca between 1 and 30 October of each year. The report shall provide information on how funds have been expended during the reporting period and include information that Fort Huachuca needs to properly promote and manage the project. Such information should include a map with the parcels acquired or proposed for acquisition under this agreement and a table that lists: the acquisition name; nature of realty interest acquired, acreage, costs, source of funds, land uses (current or intended), and a list of any agreements or management plans for the parcel.

1.6.2 Any transactional documents developed to carry out the tasks performed under this agreement. Such documents include, but are not limited to, contracts for purchase and sale; option agreements, inspections or investigations, appraisals, title searches or insurance, deeds, and final copies of all documents after they have been recorded. These shall be provided to both USAEC and Fort Huachuca.

1.6.3 Baseline inventory reports on all properties protected through this agreement. These reports should conform to standards as established by the Land Trust Alliance (LTA) and shall be provided to both USAEC and Fort Huachuca. A template for baseline inventory reports on all easements, based on the LTA model, may be provided upon request.

1.6.4 Annual monitoring reports on all properties protected through this agreement. Said reports should conform to standards as established by the LTA. These reports shall be provided to both USAEC and Fort Huachuca.

1.6.5 Annual documentation of funds acquired from sources other than the Army or Department of Defense and the expenditure of these funds shall be submitted with the annual report.

## 1.7 SPECIAL CONDITIONS

1.7.1 Either party, upon 180 days notice to the other signatories to this agreement, may terminate this agreement. In the event of termination, all funds provided by the Army and not expended shall be returned to the Army.

1.7.2 This agreement constitutes the entire agreement between the parties as to its scope and subject matter. All prior negotiations, discussions and understandings concerning its scope and subject matter are by, and incorporated into, this agreement.

1.7.3 Cochise County shall afford any authorized representative of Fort Huachuca, the Army, the Department of Defense, or the U.S. Office of Comptroller General access to and the right to examine all records, books, papers, and documents that are within Cochise County's custody and control that relate to its performance under this CA.

1.7.4 Cochise County shall not enter non-federal real property to collect information regarding the property unless the owner has:

- (a) Consented to the entry;
- (b) Been provided reasonable notice of the entry; and
- (c) Been notified that any raw data collected from the property must be made available at no cost, if requested by the landowner.

1.7.5 Title to the real property interest acquired, whether fee simple, conservation easement or other land use restriction, shall be held by Cochise County subject to the Army's right to demand transfer under 10 U.S.C. § 2684a (d)(5) of that portion of the real estate property interest necessary to ensure the property is developed and used consistently with the conservation purposes of this CA and 10 U.S.C. § 2684a.

1.7.6 No provision of this agreement shall preclude Cochise County, after consultation with and concurrence by the Army, from transferring the acquired real property interest to other eligible entities described in 10 U.S.C. § 2684a(b) (such as, state agencies, political subdivisions and private conservation organizations) for purposes of this agreement. If Cochise County or other eligible entity acquires fee interest or a conservation easement in a parcel and proposes to transfer that interest, it shall first notify the Army – in which case the Army will have the following options:

1.7.6.1 Approve of the transfer subject to Cochise County's commitment to transfer the interest subject to the Army's rights under 10 U.S.C. § 2684a(d)(5);

1.7.6.2 Exercise its rights under 10 U.S.C. § 2684(a)(d)(5) and direct Cochise County to convey to the Army an interest in real property sufficient to ensure that the property is not used or developed for purposes inconsistent with the purposes of the CA;

1.7.6.3 Direct Cochise County or other eligible entity to transfer an interest in real property sufficient to ensure that the property is not used or developed for purposes inconsistent with the CA to another entity or organization.

1.7.7 It is understood that one of Cochise County's interests in entering into this agreement is to help Fort Huachuca's mission by acquiring property suitable for design and construction of water recharge facilities, with credit for recharge being attributed to Fort Huachuca under the Endangered Species Act. To that end, and notwithstanding paragraph 1.7.5 above, no provision in this agreement shall preclude Cochise County, after consultation and concurrence by the Army, from transferring limited portions of the property that are unsuitable for water recharge facilities to private parties, subject to the conservation easement restrictions, on which a buyer may construct a single-family dwelling unit, together with any accessory structures of a nature customarily incidental and subordinate in size, impact and purpose to the dwelling unit. Any proceeds from property transfer will be managed in accordance with current regulations.

1.7.8 In the event the Secretary of the Army requires that easements be transferred to the United States, Cochise County will do so and will be reimbursed for only costs incidental to the transfer (recording fees, certified copies, etc.).

## **1.8 METHODS OF FUNDING**

1.8.1 Advance Funds: Cochise County should request funds at least 45 days prior to the date needed for closing. The request for funds will include documentation supporting the request to include closing date, acreage, location, appraised value of parcel or easement, amount of Army funding requested, partner share, and nature of interest being acquired. Concerning the acquisition of interests in real property for which Cochise County will seek reimbursement under this CA, Cochise County may engage landowners in negotiations to develop preliminary agreements in principle. Cochise County, however, will not enter a binding agreement for purchase and sale of such interest without first receiving the concurrence of the Army, an assurance that sufficient funds are available and written notice to proceed.

1.8.2 Reimbursement of Expenditures: The Army will make every reasonable attempt to reimburse Cochise County for expenses incurred within 45 days of invoice receipt for associated costs.

1.8.3 Cochise County may request expedited payment of funds with sufficient mission criticality identified in the supporting documentation.

1.8.4 The Army acknowledges that the period of time that may elapse between when federal funds are disbursed to Cochise County by the Army and the date of "closing" on approved projects under this Agreement can be in excess of seven (7) business days. The Army acknowledges that Cochise County has no control over

this time period and Cochise County will do its best to minimize the time federal funds are held prior to closing. Cochise County agrees to deposit the Government funds received under this Agreement in an interest bearing account and return any interest earned in excess of \$250.00 to the Government per applicable OMB Regulation.

#### **1.9 PERIOD OF PERFORMANCE**

1.9.1 The requirements of this cooperative agreement shall be fully performed by five years after full signatures are obtained on this agreement, unless the period of performance is extended by mutual agreement of all signatories.

1.9.2 This agreement may only be amended or terminated in accordance with the procedures set forth in paragraphs 5.3.1 and 5.3.2.

#### **1.10 REPRESENTATIONS AND CERTIFICATIONS**

1.10.1 Applicable Law. This CA is being used to implement a Federal program. Accordingly, this CA agreement shall be governed by, and construed according to, Federal law as it may affect the rights, remedies, and obligations of the United States.

1.10.2 An authorized representative of Cochise County has signed and dated the basic cooperative agreement providing the necessary assurances and certifications in compliance with the Department of Defense Grants and Agreements Regulations, Part 22 and Appendices A and B.

### **ATTACHMENT 2 – Supplemental Terms and Conditions**

#### **1. 32 CFR 32.1 (d) Subawards**

The Recipient shall comply with the provisions of this part.

#### **2. 32 CFR 32.21 Standards for Financial Management**

The Recipient shall comply with reporting requirements set forth in 32.52.

#### **3. 32 CFR 32.27 and 32.28 Allowable Costs**

The Recipient shall comply with the cost principles contained in the OMB Circular A-122.

#### **4. 32 CFR 32.26 Audit**

Non-Profit entities shall submit a copy of the OMB Circular A-133 audit reports to the DoD Inspector General and to the Grants Officer.

5. 32 CFR 32.40 Purpose of Procurement Standards

The Recipient shall comply with the procurement standards set forth in sections 32.41 through 32.48.

**ATTACHMENT 3 – Other Certifications**

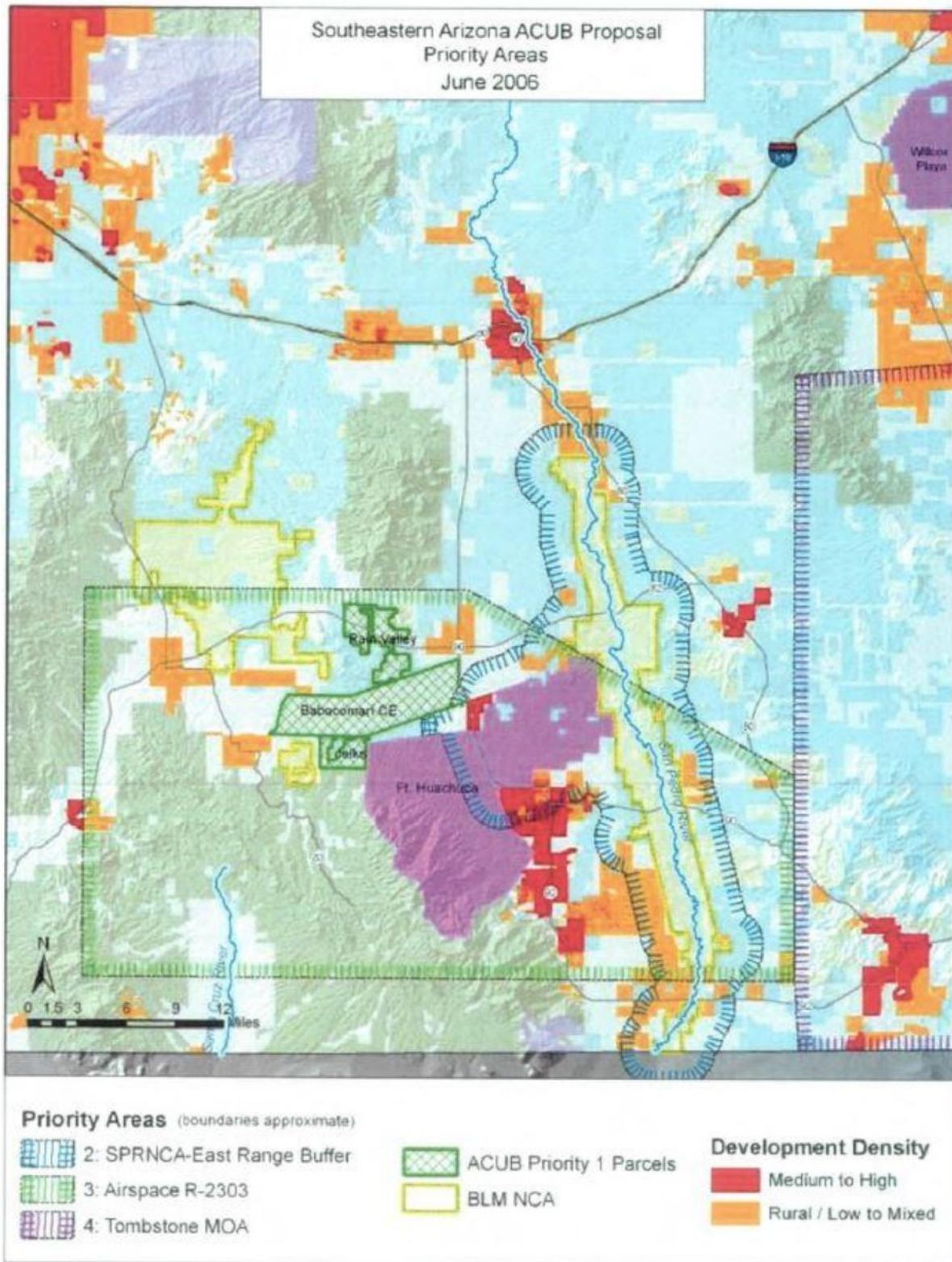
The following Certifications, which have been executed by the Recipient prior to award of this Agreement are on file with the issuing office, and are hereby incorporated herein by reference:

Certification at Appendix A to 32 CFR Part 28 Regarding Lobbying

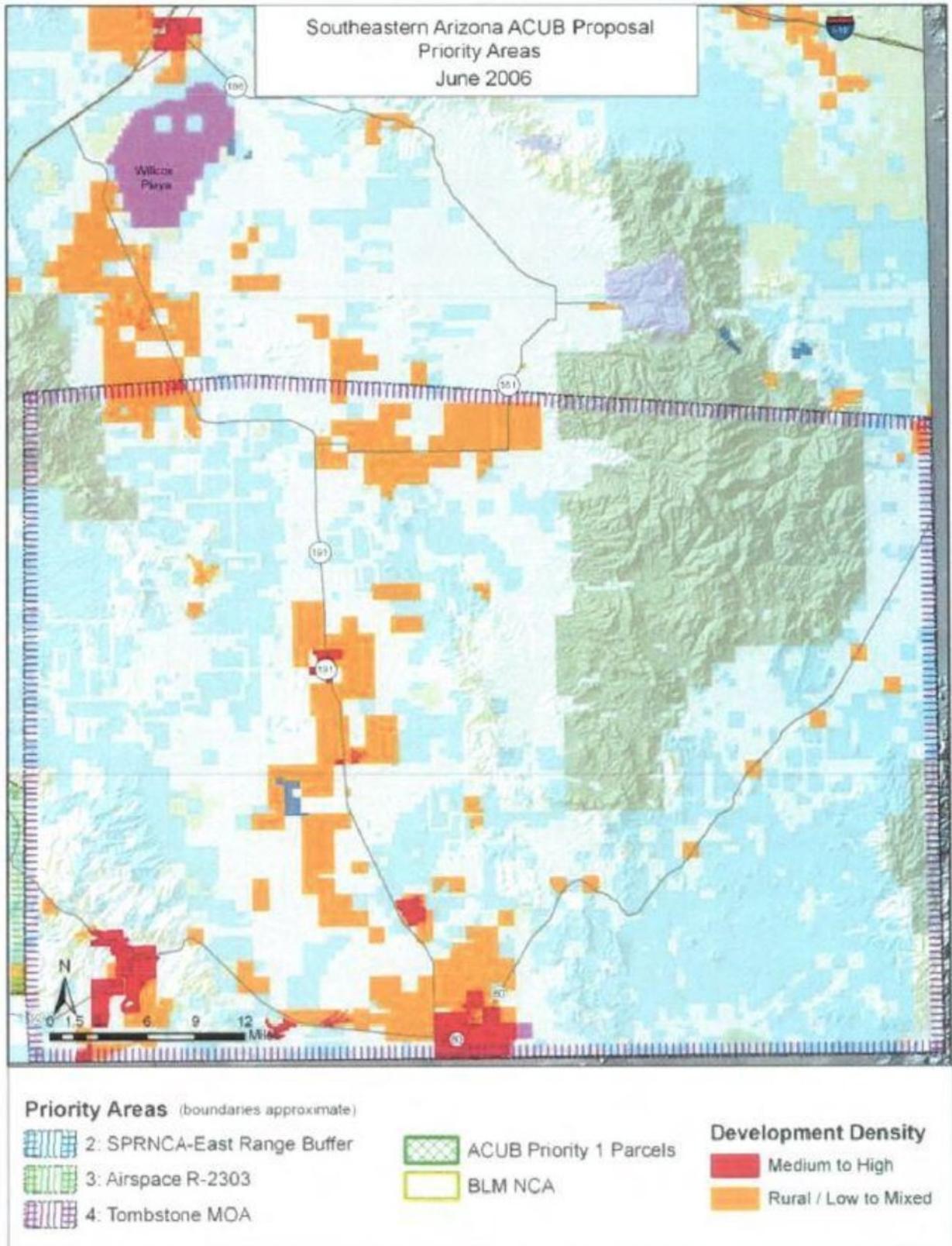
Certification at Appendix A to 32 CFR Part 25 Regarding Debarment, Suspension, and Other Responsibility Matters

Certification at Appendix C to 32 CFR Part 25 Regarding Drug-Free Workplace Requirements

### ATTACHMENT 4 – Maps



Priority Areas 1-3 for Cooperative Agreement consideration by ACUB



Priority Area 4 for Cooperative Agreement consideration by ACUB