

CONSERVATION EASEMENT AGREEMENT

This conservation easement agreement is made the day of XXX, XXXX between XXXXX, as GRANTOR of a conservation easement (hereafter referred to as the "Grantor"), and the State of New Mexico Historic Preservation Division of the Office of Cultural Affairs/Covenant Holder, as GRANTEE of the conservation easement (hereafter referred to as The "Grantee"). This conservation easement agreement is entered under Section 4.10.10 NMAC and NMSA 1978, Section 18-6-7 (A), 18-6-8, and 18-10-6 (C) (as applied to this easement's application to any potential future private ownership) and for the purpose of stabilizing XXXXX, a site that is important culturally, historically, architecturally and archeologically.

1. **The Subject Property.** This agreement creates a conservation easement in real estate legally described as XXXXXXXX located at (address) in XXX County, New Mexico (hereafter referred to as the "Property").
2. **Grant of Conservation Easement.** In consideration of the sum of XXXXX (\$XXX,XXX) received in grant-in-aid financial assistance from the National Park Service of the United States Department of the Interior ("NPS"), the Grantor hereby grants to the Grantee a conservation easement in the Property for the purpose of assuring preservation of the Property.
3. **Easement Required for Federal Grant.** This conservation easement is granted as a condition of the eligibility of the Grantor for the financial assistance from the NPS appropriated from the Historic Preservation Fund.
4. **Conditions of Easement:**
 - a. *Duration.* This conservation easement is granted for a period of ten (10) years commencing on the date when it is filed with the County Clerk.
 - b. *Documentation of condition of the Property at time of grant of this easement.* In order to make more certain the full extent of Grantor's obligations and the restrictions on the Property, and in order to document the nature and condition of the Property, including significant interior elements in spatial context, a list of character-defining materials, features and spaces, including archeological features (if known) are incorporated as "Exhibit A" at the end of this agreement. The Grantor has provided to the Grantee architectural drawings of the floor plans. To complement "Exhibit A", Grantor personnel have compiled a photographic record, including photographer's affidavit, black and white photographs and negatives, color digital prints, photograph logs, and a keyed location map. The Grantor agrees that the nature and condition of the Property on the date of execution of this easement is accurately documented by the archaeological drawings and photographic record, which shall be maintained for the life of this easement in the Grantee's conservation easement file for the Property.

c. *Restrictions on activities that would affect historically significant components of the Property.* The Grantor agrees that no construction, alteration, or remodeling or any other activity shall be undertaken or permitted to be undertaken on the Property which would affect historically significant, interior spaces and features identified in "Exhibit A", exterior construction materials, architectural details, form, fenestration, height of the Property, or adversely affect its structural soundness without prior written permission of the Grantee affirming that such reconstruction, repair, repainting, refinishing, rehabilitation, preservation, or restoration will meet The Secretary of the Interior's Standards for the Treatment of Historic Properties and the Standards for Archeology and Historic Preservation (hereinafter referred to as the "Standards").

d. *Duty to maintain the Property.* The Grantor agrees at all times to maintain the Property in a good and sound state of repair and to maintain the Property, including the other structures or features of the site, according to the Standards so as to prevent deterioration and preserve the architectural and historical integrity of the Property in ways that protect and enhance those qualities that make the property eligible for listing in the National Register of Historic Places.

e. *Restrictions on activities that would affect archeological resources.* The Grantor agrees that no ground disturbing activity shall be undertaken or permitted to be undertaken on the Subject Property that would affect historically significant archeological resources identified in "Exhibit A" without prior written permission of the Grantee affirming that such work will meet Standards.

f. *Maintenance of recovered materials.* The Grantor agrees to ensure that any data and material recovered will be placed in a repository that will care for the data in the manner prescribed in the Standards or will comply with the requirements of the Native American Graves Protection and Repatriation Act, 36 CFR 79, and 43 CFR 10.

g. *Public access.* The Grantor agrees to provide public access to view the grant-assisted work or features no less than twelve (12) days a year on an equitably spaced basis. The dates and times when the property will be open to the public must be annually published and provided to the Grantee. At the option of the Grantor, the relevant portions of the Property may also be open at other times by appointment, in addition to the scheduled twelve (12) days a year. Nothing in this agreement will prohibit a reasonably nondiscriminatory admission fee, comparable to fees charged at similar facilities in the area.

h. *Right to inspect.* The Grantor agrees that the Grantee, its employees, agents and designees shall have the right to inspect the Property at all reasonable times, with twenty-four hours (24) written notice, in order to ascertain whether the conditions of this easement agreement are being observed.

i. *Anti-discrimination.* The Grantor agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 (d)), the Americans with Disabilities Act (42 U.S.C. 12204), and with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). These laws prohibit discrimination on the basis of race, religion, national origin, or disability. In implementing public access, reasonable accommodation to qualified disabled persons shall be made in consultation with the State Historic Preservation Office.

j. *Easement shall run with the land; conditions on conveyance.* This conservation easement shall run with the land and be binding on the Grantor, its successors and assigns. The Grantor agrees to insert an appropriate reference to this easement agreement in any deed or other legal instrument by which it divests itself of either the fee simple title or other lesser estate in the Property or any part thereof.

k. *Casualty Damage or Destruction.* In the event that the Property or any part of it shall be damaged or destroyed by fire, flood, windstorm, earth movement, or other casualty, the Grantor shall notify the Grantee in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Property and to protect public safety shall be undertaken by the Grantor without the Grantee's prior written approval indicating that the proposed work will meet the Standards. The Grantee shall give its written approval, if any, of any proposed work within sixty (60) days of receiving the request from the Grantor. If after reviewing the condition of the property, the Grantee determines that the features, materials, appearance, workmanship, and environment which made the property eligible for listing in the National Register of Historic Places has been lost or so damaged that its continued National Register listing is in question, the Grantee will notify the Keeper of the National Register in writing of the loss. The Keeper of the National Register will evaluate the findings and notify the Grantee in writing of any decision to remove the property from the National Register. If the property is removed, the Grantee will then notify the Grantor that the agreement is null and void. If the damage or destruction that warrants the properties removal from the National Register is deliberately caused by the gross negligence of the Grantor or future owner, then the Grantee will initiate requisite legal action to recover, at a minimum, the federal grant funds applied to the Property which will then be returned to the U.S. Treasury.

l. *Enforcement.* The Grantee shall have the right to prevent and correct violations of the terms of this easement. If the Grantee, upon inspection of the property, finds what appears to be a violation, it may exercise its discretions to seek injunctive relief in a court having jurisdiction. Except when an ongoing or imminent violation will irreversibly diminish or impair the cultural, historical and architectural importance of the Property, the Grantee shall give the Grantor written notice of the violation and allow thirty (30) days to correct the violation before taking any formal action, including but not limited to, legal action. If a court, having jurisdiction, determines that a violation exists or has occurred, the Grantee may obtain an injunction to top the violation, temporarily or permanently. A court may also issue a mandatory injunction requiring the Grantor to restore to the Property to a condition that would be consistent with preservation purposes of the grant from the NPS. In any case where a court finds that a violation has occurred, the court may require the Grantor to reimburse the Grantee and the State Attorney General for all the State's expenses incurred in stopping, preventing and correcting the violation, including but not limited to reasonable attorney's fees. The failure of the Grantee to discover a violation or to take immediate action to correct a violation shall not bar it from doing so at a later time.

m. *Amendments.* The parties may by mutual written agreement jointly amend this easement, provided the amendment shall be consistent with preservation purpose of this easement and shall not reduce its term of duration. Any such amendment shall not be effective unless it is executed in the same manner as this easement, refers expressly to this easement, and is filed with the XXXX County Clerk.

n. *Effective date: severability.* This conservation easement shall become effective when the Grantor files it in the Office of the County Clerk of XXXX County, State of New Mexico, with a copy of the recorded instrument provided to the Grantee for its conservation easement file. If any part of this conservation easement agreement is held to be illegal by a court, the validity of the remaining parts shall not be affect, and the rights and obligations of the parties shall be construed and enforced as if the conservation agreement does not contain the particular part held to be valid.

GRANTOR: XXXXXXXXX

By: _____
Name and Title

State of New Mexico, Grant County, ss: On this _____ day of _____ 2014, before me the undersigned, a Notary Public for said State, personally appeared _____, to me personally known, who stated the he is _____, that no seal has been procured by said corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and that such officer, he acknowledged that he executed the foregoing instrument as his voluntary act and the voluntary act of the corporation.

NOTARY PUBLIC

GRANTEE: Historic Preservation Division, Office of Cultural Affairs, State of New Mexico

By: _____
Jeff Pappas, Director

STATE OF NEW MEXICO, SANTA FE COUNTY, ss: On the _____ day of _____ 2014, before me, a Notary Public for said State, personally appeared Jeff Pappas, who stated that he is duly appointed and actively serving Director of the State Historic Preservation Office, and that he executed the foregoing conservation easement agreement as his voluntary act and as the voluntary act of the state of New Mexico Office of Cultural Affairs.

NOTARY PUBLIC

EXHIBIT "A" TO CONSERVATION EASEMENT AGREEMENT
XXXX, XXXX County, New Mexico

To remain eligible for listing on the National Register of Historic Places, a property must be able to convey its significance. The following character-defining materials, spaces, and features have been identified as those that help convey the significance of the XXXX, photographic documentation is attached.

Significant Interior Spaces and Features

Refer to attached Appendix A.

Significant Exterior Spaces and Features

Refer to attached Appendix A.