



Land Trust Roundtable

**Partnerships: Collaboration,
Expectations & Enforcement**

November 7, 2024

Today's Agenda



COOPERATIVE
AGREEMENT



MONITORING
OPTIONS &
REQUIREMENTS



ROLES &
RESPONSIBILITIES



ENFORCEMENT



INSIGHTS &
CHALLENGES



Cooperative Agreement

WHAT IS A COOPERATIVE AGREEMENT?

The Cooperative Agreement

- Clarifies partner roles and establishes a common understanding.
- Required for Maryland land trusts per Md. Code Ann. Nat. Res. §3-2A-01. Several other provisions of the Annotated Code of Maryland refer to the “Cooperative Agreement” between MET and a land trust. (See “Recitals” section of the Agreement for list.)
- Required for a land trust to apply for certain Keep Maryland Beautiful Program and Greenspace Equity Program grants; be eligible for state property tax exemptions and credits; and sponsor DNR Rural Legacy areas.

Changes to the 2024 template include:

- Inclusion of remote monitoring
- Updated section on stewardship and enforcement of co-held easements
- Additional supporting documentation under Section I.F. and Section III.A.



COOPERATIVE AGREEMENT

Recitals

General idea about what this Agreement is about, who the parties are and why they are signing the Agreement

Section I. Requirements to Enter or Renew a Cooperative Agreement with MET

Organizational standing, policies and supporting documentation required to partner with MET and hold a Cooperative Agreement to access certain state tax benefits or programs.

Section II. Property Tax Exemptions or Tax Credit on land Owned in Fee by a Land Trust

Explanation of state benefits for land owned by land trust in fee and how to request a “Written Certificate” in order to apply for tax benefits

Section III. Joint Perpetual Conservation Easements

Obligations accepted by land trust with regard to conservation easements co-held with MET. Outlines shared activities for co-held easements including:

- Easement acquisition;
- Stewardship, monitoring and enforcement;
- Reserved rights, consents and amendments.

Section IV. Performance and Termination

Information on how to terminate this Agreement, land trust dissolution, and the assignment of jointly held easements.

Section V. Interpretation of this Agreement

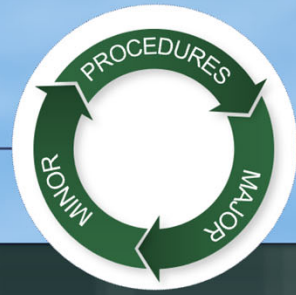
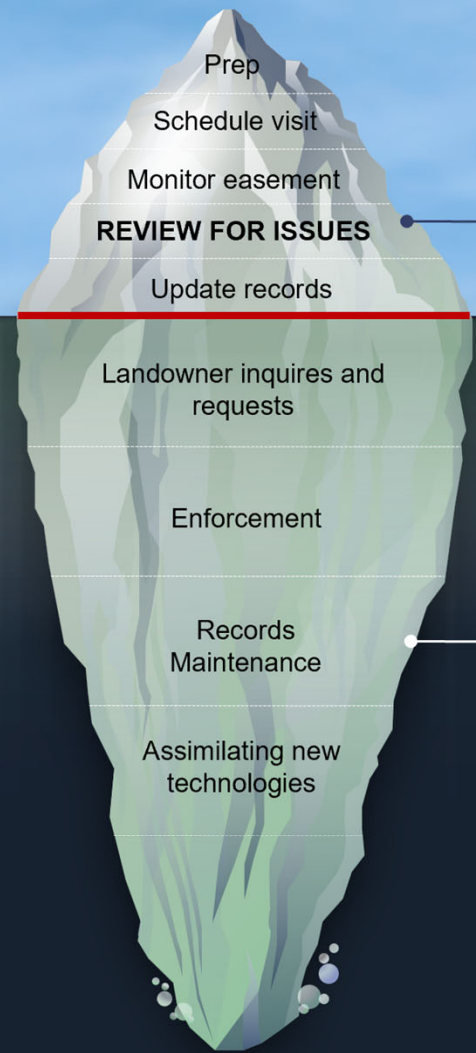
Explanation of the scope of the Agreement.



Monitoring Options and Expectations

Under the new Cooperative Agreement, monitoring reports must be legible and at minimum include the observations and reporting requirements listed in Addendum A. Addendum A will include the agreed OTG and/or remote monitoring report template(s). Addendum A will be a discussion with each co-holder, but generally the reports should include minimum reporting requirements which we will outline in this discussion.

- On-the-ground monitoring
- Remote monitoring
- Sample report
- Noting “overall impressions” in the monitoring report
- Monitoring and report review process
- What to report and when



Stewardship is more than just monitoring


... and monitoring is more than just the site visit.

- Essential records for each property
- Organizational records
- Both digital and paper

In Perpetuity

Stewardship also involves a larger set of issues, including records maintenance, landowner queries, requests and mediation, and in the event of a potential or actual violation of the easement terms landowner follow-up and in occasional cases some kind of enforcement action.

Ground Monitoring



**MONITORING
REPORT**

Easement Number

Co-holder Number

Visit Date

EASEMENT

Original Grantor

Co-holder

Current Owner

Property Address

Total Acres *Landowner Acres (if multiple interests)*

VISIT

Monitor Name Role (circle) MET MET Volunteer Land Trust

Also present

Arrived at property Left property at Photos taken

Contact with landowner? No Yes Method (circle) Present Phone Email Letter

Landowner comments or future plans? Landowner questions or requested information?

RESIDENCES AND OTHER STRUCTURES

No structures

Total residences Total accessory structures

New and/or changed structure(s)? No Yes

Structures comments:

WHAT IS IT?

On-the-ground monitoring, or OTG for short, includes a visual assessment and documentation of conditions of an easement property while physically on the property. Methods for OTG monitoring may include physically traversing the property by foot, vehicle, boat, using drones or a combination.

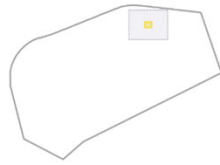
REPORTING SHOULD INCLUDE:

- Easement identifier name/number
- Premise address
- Owner at time of visit
- Date of Monitoring Visit
- Monitor Name and signature
- Portion of property viewed (if not using a photo point map)
- Structure details (separate notes for residences and accessory structures)
- Buffer condition, if required by easement (separate notes for width, type, other?)
- Overall impressions- includes property condition and other observations related to protected attributes
- Observed concerns or potential violations

SPECIAL ATTENTION TO...

Photos. Monitoring photos should be taken of any structures, especially residences (dwelling units), land uses and activities, buffers, potential or actual violations, and basically anything of note documented in the report. Remember to caption photos and include the direction the photo was taken. A photo log describing the photos can also be used. The location of photos should also be referenced on a map. See MET's FAQ on taking photos.

Note 4



Image

CAPTURE DATE
March 01, 2024
SOURCE
Truecolor
Nearmap (0.5m)
© Nearmap 2024

- Flowlines
- Microsoft Building Footprints

Interpretation

CENTER	NOTE
39.52211, -76.75918	Land Use Comments: Debris piles, possibly agriculturally related
AREA	
0.30 acres	
INTERPRETER	
Laural Paterini	
INTERPRETATION DATE	
May 23, 2024	

Remote Monitoring

WHAT IS IT?

Remote monitoring consists of reviewing easement properties using aerial/satellite imagery. Images should be in color, have a resolution 0.5m or better and must be less than one year old at the time of review.

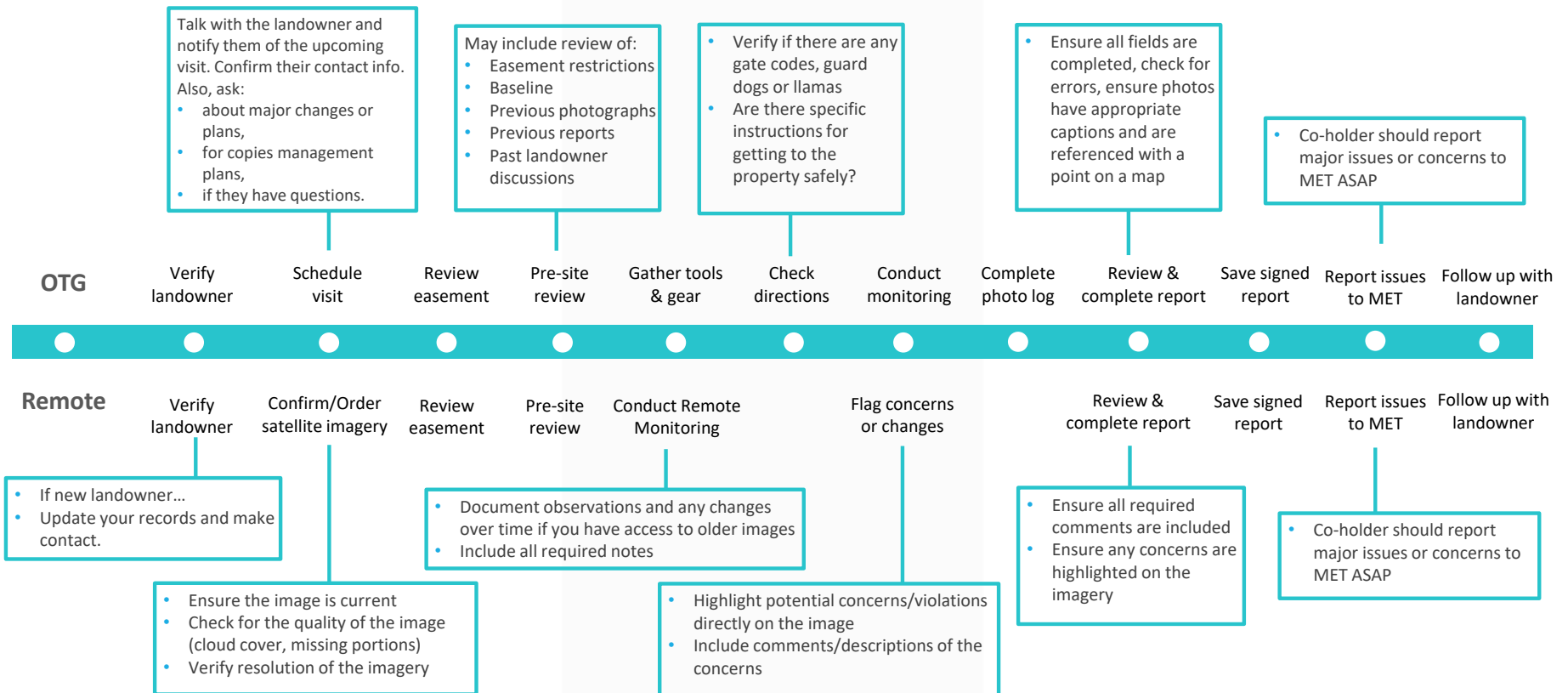
REPORTING REQUIREMENTS:

- Easement identifier name/number
- Premise address
- Owner at time of visit
- Date of observation
- Printed name and signature of person monitoring
- Date image was taken
- Resolution and source of image
- Separate note for:
 - Land use
 - Structures
 - Buffer
 - Overall impressions
 - Observed issues or concerns

SPECIAL ATTENTION TO...

Areas of concern. Any observed issues or concerns should be highlighted on the map. For example, the observation should include a zoomed in image with a pin or a polygon around the noted concern.

Example Workflow for Monitoring



...And remember to use FLAGS



<u>F</u> eedback	<u>L</u> evel	<u>A</u> lert	<u>G</u> overnance	<u>S</u> tatus
Document monitoring observations.	What is the level of concern?	Who needs to be notified?	Follow policies and procedures.	Has the issue been resolved?
<ul style="list-style-type: none"> Monitor should provide feedback on what they observed during the site visit. 	<ul style="list-style-type: none"> Is the issue a concern that needs to be monitored? Is the issue a violation? What type of violation is it? 	<ul style="list-style-type: none"> Concerns that are flagged may need to be reported to coholders or other entities. Major issues or violations should be shared with coholders right away. 	<ul style="list-style-type: none"> Does your organization have a process to address the issue? (e.g. enforcement procedures, stewardship policy, etc.) Use your policies and procedures as a guide to gauge next steps. 	<ul style="list-style-type: none"> Ground truth with a site visit. Has the issue or violation been resolved? What is the plan to check on and verify compliance? Check-in regularly. Has the landowner taken any action to resolve the issue?

Enforcement



CONCERN



TECHNICAL



MINOR



MODERATE



MAJOR

Concern

- Staff become alerted to potential issue by monitor, county, public complaint, etc.
- Investigate to determine if violation has occurred
- Contact the landowner and try to inspect ASAP



Technical

- Administrative, does not cause physical damage to conservation attributes
- Follow up with landowner to resolve
- Depending on issue, and landowner cooperation, may progress to elevated violation status





Minor

- Minimal impact to property and/or conservation attributes
- Follow up with landowner for explanation and/or to give timeframe for resolution
- Notify co-holder (discuss severity if applicable)



Moderate

- Documented impact to property and/or impacts to conservation attributes, unresolved minor violation(s).
- Notify co-holder and discuss next steps
- Stewardship Manager to verify violation and notify landowner in writing
- Meet with landowner to discuss resolution, timeline, etc.



Major

- Immediate or previous harm to the property and/or impacts to conservation attributes, unresolved moderate violation(s)
- Same as previous notification and verification steps
- At this level, the Director, Board and OAG will be involved
- Pursuit of litigation is necessary for resolution/mitigation, is very likely, or is in progress



Collaboration

- MET will coordinate with its coholders and partners as soon as reasonably possible after violation has been identified.
- MET staff will review referral and documents provided by LLT and MET staff will categorize the violation according to internal procedure
- Notices to LO may come from one or both coholders
- MET will enlist OAG assistance if resolution is not achieved

Takeaways: Enforcement

- Each coholder is obligated to uphold and protect the terms of its conservation easement agreements as written, jointly or independently.
- All attempts will be made to resolve violations together in a fair, consistent, and efficient manner
- There will always be mitigating circumstances to each scenario
- MET reserves the right to adapt its enforcement procedures as necessary in proportion to each circumstance.
- MET consults the Office of the Attorney General regularly and as appropriate for guidance in handling enforcement



Meet MET's Stewardship Team

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