

**APPENDIX M DRAFT PROGRAMMATIC AGREEMENT**

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**DRAFT**  
**Programmatic Agreement**  
**Among**  
**The Bureau of Land Management**  
**The Arizona State Historic Preservation Officer**  
**The New Mexico State Historic Preservation Officer**  
**The Advisory Council on Historic Preservation**  
**The United States Army Corps of Engineers**  
**The New Mexico State Land Office**  
**The New Mexico Department of Transportation**  
**The Arizona State Museum**  
**The Arizona State Land Department**  
**The Arizona Department of Transportation**  
**and**  
**SunZia Transmission, LLC**  
**Regarding the**  
**SunZia Southwest Transmission Line Project**

1. **Whereas**, SunZia Transmission, LLC, intends to construct, operate and maintain the SunZia Southwest Transmission Line Project (Undertaking) according to general parameters contained in the project Plan of Development (POD), summarized in the Undertaking Description (Attachment 1) and;
2. **Whereas**, the BLM intends to issue a right-of-way (ROW) grant for the construction, operation and maintenance of the SunZia Southwest Transmission Line Project, and the ROW grant will reference this PA; and
3. **Whereas**, this Programmatic Agreement (PA) and the Historic Properties Treatment Plan (HPTP) that will be developed pursuant to this PA will be incorporated into the POD; and
4. **Whereas**, the New Mexico State Office of the Bureau of Land Management (BLM) is a Signatory to this Agreement and has been designated to serve as the federal lead agency for the Project and in consultation with other parties has determined that the Undertaking will have an adverse effect upon properties included in or eligible for inclusion in the National Register of Historic Places (NRHP); and
5. **Whereas**, the BLM has consulted with the New Mexico State Historic Preservation Officer and the Arizona State Historic Preservation Officer (SHPO), pursuant to Section 800.6 of the regulations (36 CFR part 800) implementing Section 106 of the National Historic Preservation Act (NHPA)(16 U.S.C. 470f) and they are Signatories to this Agreement; and
6. **Whereas**, the BLM has notified the Advisory Council on Historic Preservation (ACHP) pursuant to 36 CFR § 800.6(a)(1)(i)(C) that the Undertaking will have adverse effects on properties listed on or

eligible for listing on the NRHP (8-14-12) and the ACHP has agreed to participate to resolve adverse effects and is a Signatory to this Agreement (8-27-12); and

7. **Whereas**, the BLM is responsible for government-to-government consultation with Indian tribes and pursuant to section 101(d)(6)(B) of the NHPA, 36 CFR § 800.2(c)(2)(ii), the American Indian Religious Freedom Act (42 U.S.C. 1996; AIRFA), Executive Order 13175, and section 3(c) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001-13; NAGPRA), and has formally invited the 29 Indian tribes listed below to participate in consultations regarding the potential effects of the Undertaking on properties to which they ascribe traditional religious and cultural significance; and
8. **Whereas** the Tohono O’odham Nation, the Gila River Indian Community, the Salt River Pima-Maricopa Indian Community, the Ak-Chin Indian Community, the Hopi Tribe, the Tonto Apache Tribe, the Yavapai-Apache Nation, the Pascua Yaqui Tribe, the San Carlos Apache Tribe, the Mescalero Apache Tribe, the White Mountain Apache Tribe, the Navajo Nation, the Pueblo of Acoma, the Pueblo of Laguna, the Pueblo of Isleta, the Pueblo of Jemez, the Pueblo of Santo Domingo, the Pueblo of Sandia, the Pueblo of Taos, the Pueblo of Tesuque, the Pueblo of Zuni, the Jicarilla Apache Tribe, the Comanche Indian Tribe, the Fort Sill Apache Tribe of Oklahoma, the Kiowa Tribe of Oklahoma, the Apache Tribe of Oklahoma, the Caddo Indian Tribe, the Wichita and Affiliated Tribes, and the Ysleta del Sur Pueblo, have been consulted and have been invited to be Concurring Parties to this Agreement; and
9. **Whereas** the Pueblo of Zuni, the Hopi Tribe, the Tohono O’odham Nation, the Gila River Indian Community, the Salt River Pima-Maricopa Indian Community, the Ak-Chin Indian Community, the San Carlos Apache, the Fort Sill Apache, the Mescalero Apache, the Pueblo of Isleta, and the Pueblo of Ysleta del Sur have indicated a desire to participate in consultations for this Undertaking; and
10. **Whereas**, the Undertaking crosses lands under the jurisdiction of the New Mexico State Land Office (NMSLO) and the Arizona State Land Department (ASLD) and the BLM has consulted with these agencies about the effects of the Undertaking on historic properties and has invited them to be Invited Signatories to this Agreement; and
11. **Whereas**, the BLM has consulted with the New Mexico Department of Transportation (NMDOT) and the Arizona Department of Transportation (ADOT), who may issue ROWs to the Applicant for access to and construction of certain components of the Undertaking, and has invited them to be Invited Signatories to this Agreement; and
12. **Whereas**, the United States Army Corps of Engineers (USACE) will be responsible for issuing permits under Section 404 of the Clean Water Act for the Undertaking and the BLM has consulted with them about the effects of the Undertaking on historic properties and has invited them to be an Invited Signatory to this Agreement; and
13. **Whereas**, the ASLD and ADOT intend to use provisions of this Agreement to address the applicable requirements of the Arizona State Historic Preservation Act (A.R.S. § 41-861 et. seq.) and the

Arizona Antiquities Act (AAA) (A.R.S. § 41-841 et. seq.) on lands owned or controlled by the State of Arizona; and the NMSLO and NMDOT intend to use the provisions of this Agreement to address the applicable requirements of the Cultural Properties Act (§ 18-6-1 through § 18-6-17 NMSA 1978), the Cultural Properties Protection Act (§ 18-6A-1 through § 18-6A-6 NMSA 1978) and the Prehistoric and Historic Sites Preservation Act (§ 18-8-1 through § 18-8-7 NMSA 1978); and

- 14. Whereas**, the Arizona State Museum (ASM) has been invited to participate pursuant to 36 CFR § 800.6 (c)(2)(iii), as it has defined authority and responsibilities under A.R.S. § 41-841 et. seq. that apply to that portion of the undertaking on state lands in Arizona (state, county, city and municipal lands); and defined authority and responsibilities under A.R.S. § 41-865 that apply to that portion of the undertaking on private lands and BLM has invited them to be an Invited Signatory to this Agreement; and
- 15. Whereas**, SunZia Transmission, LLC (Applicant), has participated in consultations and the BLM has invited them to be an Invited Signatory to this Agreement; and
- 16. Whereas**, El Camino Real de Tierra Adentro National Historic Trail is co-administered by the BLM and the National Park Service, National Trails Intermountain Region Office (NPS-NTIR), and the BLM has determined that the Undertaking will likely affect this Trail and has invited the NPS – NTIR to be a Concurring Party to this Agreement; and
- 17. Whereas**, the BLM has provided the public opportunities to comment on the Undertaking and participate in the National Environmental Policy Act (NEPA) process through a Notice of Intent to Prepare an Environmental Impact Statement (EIS) published in the Federal Register on May 29, 2009 for the development of the EIS; held nine public scoping meetings in June and July 2009; held three additional scoping meetings in October 2009; held two additional scoping meetings in April 2010; published the Draft EIS in May 2012 and held ten public meetings in June and July of 2012. Public meeting materials included information about the NHPA and the Section 106 process and BLM considered comments received through the NEPA and NHPA processes concerning cultural resources in the development of this Agreement; and
- 18. Whereas**, the following organizations and agencies have participated in consultations as Consulting Parties in accordance with 36 CFR § 800.2(c)(5) and 800.3(f)(1) and (3): the Arizona Archaeological Council, the New Mexico Archaeological Council, the National Trust for Historic Preservation, Archaeology Southwest, the Camino Real Trail Association (CARTA), the Cascabel Working Group, the NPS, Salinas Pueblo Missions National Monument, White Sands Missile Range, the Alliance for Regional Military Support (ARMS) and Pima County, Arizona, and BLM has invited them to be Concurring Parties to this Agreement;

**Now, Therefore**, the parties to this document agree that the SunZia Transmission Line Project shall be completed in accordance with the stipulations established in this Agreement in order to take into account the effects of the Undertaking on historic properties.

## UNDERTAKING DESCRIPTION

The Undertaking encompasses the construction phase of the proposed transmission line project that takes place after the BLM ROW grant is issued and includes and associated project facilities as well as reclamation of areas used during construction but not necessary for operation and maintenance of the facilities. The Undertaking may include surveys, geotechnical testing, engineering, mitigation planning and design, or other activities initiated prior to construction of project facilities. The potential effects to historic properties will be the most extensive and substantial during the construction phase. The undertaking also encompasses those activities necessary to operate and maintain the transmission line over the life of the project. Operation and maintenance activities are approved in the ROW grant and confined to the ROW. Changes to approved operations and maintenance activities, including new actions outside of the ROW, require BLM approval and may necessitate a separate Section 106 review. This PA considers the process necessary to comply with Section 106 obligations for construction and reclamation as well as operation and maintenance of the proposed transmission lines and associated facilities.

Decommissioning will take place in the future and will be considered a separate undertaking when it occurs.

**See Attachment 1** for a more detailed description of the Undertaking and **Attachment 2** for a map of the Undertaking

## DEFINITIONS USED IN THIS AGREEMENT

See Attachment 3

## STIPULATIONS

The BLM shall ensure that the Project is carried out in accordance with the following stipulations in order to take into account the effect of the Undertaking on historic properties:

- I. Identification of Historic Properties
  - A. The Areas of Potential Effect (APE) (see Attachments 2 and 3) are defined as:
    1. **Direct effects:** The APE for direct effects during construction and reclamation will include all areas likely to be affected by construction and reclamation activities. This APE will be the 400- to 1000-foot-wide permitted ROW corridor for two parallel 500 kV transmission lines and access roads (within corridor) plus 100 feet on either side of the corridor. The 1200 foot width will allow for adjustments in transmission line or access road placement to avoid when possible, natural, cultural or modern features such as outcrops, historic properties, petroglyph sites and structures.

- a. Proposed new access routes and existing roads requiring improvement outside the transmission line ROW will have a 150-foot-wide APE (75 feet from centerline).
  - b. The APE for staging areas, borrow areas, substations, and other transmission infrastructure will include the footprint of the facility and a buffer of 200 feet around the footprint of the proposed activity/facility.
  - c. The APE for pulling/tensioning sites that fall outside the ROW will be the footprint of the site plus a 250-foot radius around these points.
  - d. Direct effects from operation and maintenance activities will be confined to the ROW.
2. **Indirect effects:** The APE for indirect effects shall be areas visible and within five miles of any project component (including conductors and access roads) or to the visual horizon, whichever is closer, or where consultation identifies a need to expand this APE in certain locations.
- a. A Geographic Information System (GIS) view shed analysis will be used to identify areas in the indirect effects APE from which the Undertaking may be visible.
  - b. The indirect effects APE may extend beyond the five mile convention to encompass properties that have traditional religious and cultural importance, including traditional cultural properties (TCP), or other geographically extensive historic properties such as trails, when effects have been determined to extend beyond this distance.
3. **Cumulative effects:** The APE for cumulative effects shall be the same as that for direct and indirect effects.
- B. The Applicant shall complete a cultural resources inventory to identify historic properties that could be affected by the Undertaking. This inventory will include:
1. A Class I, Existing Data Inventory of all previously recorded cultural resources within ¼ mile of the APEs described in I.A.1., and the entire APE described in I.A.2. In performing the Class I Inventory, historical maps including 15' topographic maps, General Land Office maps and survey notes, and other archival sources will be reviewed for properties that are over 50 years old that may be affected by the Undertaking.
  2. A Class III, Intensive Field Inventory of the direct effects APE as defined in Stipulation I.A.1., above. The Class III Inventory will be conducted with sensitivity for non-archaeological locations or other features identified as important through tribal consultation or ethnographic studies.
    - a. For the direct effects APE as defined in I.A.1., all historic linear features such as canals, roads, trails, and railroads will be identified and recorded where they intersect

the APE and will be fully recorded within the APE. For the indirect effects APE as defined in I.A.2., all historic linear features such as canals, roads, trails, and railroads will be identified where they intersect the APE for direct effects.

- b. All previously recorded cultural resources within the direct effects APE will be re-visited with the associated records updated and revised if appropriate including NRHP eligibility recommendations and determinations. Previously recorded cultural resources and newly recorded cultural resources whose boundaries lie partially within the APE will, to the extent practical, be fully recorded, regardless of surface ownership.
  - c. Previously recorded and newly recorded cultural resources will be referenced by permanent site numbers, Universal Transverse Mercator (UTM) coordinates and by Milepost within NMDOT and ADOT rights-of-ways.
  - d. Cultural-visual sensitivity assessments will be conducted for historic properties within the direct and indirect effects APEs that could be considered visually sensitive and potentially affected by the Undertaking that meet the following criteria:
    - 1) View shed analysis indicates that the Undertaking would be visible to the historic property;
    - 2) The historic property is eligible for the NRHP under criterion “a, b, or c”. Under special circumstances, historic properties eligible under criterion d only may be included.
- C. The Applicant shall prepare a comprehensive Inventory Report incorporating findings from the existing Class I/II Data Inventory and the Class III, Intensive Field Inventory for each state. This comprehensive Inventory shall include NRHP eligibility recommendations and assessments of direct, indirect and cumulative effects within the APE of the Undertaking as described in I.A.1 above.
- D. The Applicant shall submit the draft Inventory Reports for each state to the BLM. The BLM will provide the reports to the appropriate land managers, the ASM and concerned tribes within each state for review, concurrent with BLM review. Written comments will be provided to the BLM within 30 calendar days regarding the adequacy of the identification effort, the NRHP eligibility of the cultural properties identified, the effects of the Undertaking on the cultural properties identified, and whether there are any properties of traditional cultural or religious importance to tribes and ethnic groups, that were not identified in the inventory and that may be affected by the Undertaking. The BLM shall ensure that comments received within 30 calendar days are considered in development of the revised Inventory Reports. The BLM will submit the revised inventory reports to the appropriate SHPO, tribes and Consulting Parties for a 30 calendar day review and will request SHPO concurrence on determinations of eligibility and effect.



- E. As part of its identification efforts, the BLM has consulted with Indian tribes whose aboriginal territories included portions of the Undertaking area or who have previously expressed interest in undertakings within the APE. The BLM shall continue to consult with Indian tribes regarding properties of traditional religious and cultural importance to them that might be affected by the Undertaking and shall provide review and comment opportunities for draft and final versions of the Inventory Report. The consultation process will remain open for any tribe that expresses a desire to participate.

## II. Determinations of National Register Eligibility

- A. When making determinations of NRHP eligibility, the BLM will consider historic sites, districts, buildings, structures and objects that are significant and meet the integrity criteria. For properties that have traditional cultural values, the BLM shall take into consideration values expressed by the consulted tribes or other ethnic groups. The BLM shall make NRHP eligibility determinations, and provide copies to appropriate Consulting Parties to provide comment, taking into consideration all comments received from the Consulting Parties. If the SHPO or the land managing agency disagrees with the BLM's determinations of eligibility, the BLM shall consult with the SHPO and the land managing agency to resolve the objection. If a resolution cannot be agreed upon, the BLM shall forward the required documentation to the Keeper of the National Register for final determinations. The BLM shall ensure that the Applicant prepares a revised Inventory Report incorporating BLM's eligibility determinations, or the Keeper's determination, if requested.
- B. Any cultural resources for which eligibility cannot be determined during the inventory phase of the Undertaking shall be identified in the Historic Properties Treatment Plan (HPTP). Additional studies such as testing, research and oral histories will be completed for all such resources that will be affected by the Undertaking to enable the BLM, the land manager, and the SHPO to make an eligibility determination. The eligibility determinations for such resources will be submitted to the respective SHPO(s) and land manager(s) with a summary report describing the results of the additional studies and a request for concurrence on the determination of eligibility. The SHPO will review these determinations of eligibility and respond to the BLM within 30 calendar days. If the SHPO does not respond to the BLM within 30 calendar days, the BLM will assume concurrence with the determination(s) of NRHP eligibility.

## III. Avoiding and Minimizing the Adverse Effect of the Undertaking on Historic Properties

- A. The BLM shall, if possible, avoid adverse effects to all types of historic properties, with input from Consulting Parties.
  - 1. Avoidance measures for cultural resources may include (but are not limited to) realignment of the transmission line, fencing of sites during construction, monitoring of construction near site areas, or placing towers, maintenance roads and ancillary facilities outside of site boundaries.

2. If appropriate, the BLM shall develop avoidance measures for properties of traditional religious and cultural importance in consultation with the SHPO and affected tribes or Native American groups or other ethnic groups who ascribe traditional religious and cultural importance to the properties.
  3. Where appropriate, the BLM shall identify measures to avoid adverse effects from operation and maintenance activities to those historic properties remaining within the ROW, and shall incorporate these measures in the HPTP in accordance with Stipulation IV.A.1.
- B. Where avoidance is not possible, the BLM shall minimize or mitigate adverse effects to historic properties if possible, with input from Consulting Parties.
- C. If any Indian tribes or other Native American groups have expressed concerns about effects on properties to which they ascribe traditional religious and cultural importance, BLM shall consult with them and the appropriate SHPO about possible measures to resolve the adverse effects and ensure that those measures are properly considered in the development of the HPTP.
- D. In New Mexico, if the adverse effect is to a property listed in the State Register of Cultural Properties or NRHP, the Applicant must demonstrate that there is no prudent or feasible alternative to the proposed Undertaking consistent with the requirements of 4.10.12.11 NMAC. The Applicant's analysis must be submitted to the New Mexico SHPO for concurrence.

#### IV. Resolution of Adverse Effects: Development of the HPTP

- A. The BLM shall ensure that the Applicant prepares a HPTP for each state that will address the effects of the proposed undertaking on historic properties during the Undertaking , including TCPs as discussed in *National Register Bulletin* No. 38. The HPTP shall address potential effects from construction and reclamation as well as from operation and maintenance of the proposed transmission lines and associated facilities. The HPTP will be incorporated into the POD as an appendix and will:
1. Identify the nature of the effects to historic properties and describe the strategies proposed to avoid, minimize, or mitigate those effects.
  2. Identify cultural resources that will be affected by the Undertaking for which NRHP eligibility determinations could not be made, and will specify the strategy for determining eligibility. It will further specify the strategy that will be used in the event that these cultural resources are determined to be eligible as a result of the testing/study phase. Stipulation II.C will be followed for determining eligibility.

3. Be consistent with the Secretary of the Interior's Standards and Guidelines (48 CFR 44716-44742); the ACHP's handbook, *Section 106 Archaeology Guidance* (<http://www.achp.gov/archguide>); the rules implementing the AAA and 36 CFR§ 800.13, *Post-Review Discoveries*, and in so doing will incorporate provisions for monitoring and inadvertent discoveries.
4. At a minimum, the HPTP will specify and include:
  - a. The historic properties to be affected by the Undertaking and the nature of those effects.
  - b. The historic properties to be avoided and applicable avoidance measures, pursuant to Stipulation III.A.
  - c. The historic properties where harm will be minimized and applicable measures to minimize harm.
  - d. The properties at which adverse effects will be mitigated through scientific data recovery or other means.
  - e. For archaeological resources, research questions and goals that are applicable to the Undertaking area and which can be addressed through data recovery and archival studies, along with an explanation of their relevance and importance. These research questions and goals will incorporate the concept of historic contexts as defined in National Register Bulletin 16.
  - f. Fieldwork and analytical methods and strategies applicable to the Undertaking area, along with an explanation of their relevance to the research questions when dealing with archaeological resources. Treatment methods will be developed for each class of property identified in the Inventory Report and may include excavation, scientific studies outside of the ROW, archival research, off-site interpretation, remote sensing, ethnographic studies, and oral history, as appropriate.
  - g. The level of effort to be expended on the treatment of each property. For archaeological resources this will include methods of sampling, i.e., sample size, and rationale for specific sample unit selection.
  - h. Data management and dissemination methodologies, including a proposed schedule of reports.
  - i. A Monitoring and Discovery Plan that will be a standalone appendix to the HPTP. It will contain:
    - 1) A monitoring plan to be used during construction and reclamation

- 2) A discovery plan consistent with Stipulation VII to be used during the entire Undertaking.
  - 3) If appropriate, a monitoring plan to be used for post-construction monitoring in accordance with Stipulation IV.E. This plan will be developed in consultation with the Consulting Parties and will be added after treatment activities are concluded. Any reports resulting from post-construction monitoring will be submitted to the consulting parties in accordance with Stipulation XI.C.
  - 4) All monitoring shall have clearly stated objectives and methodologies for achieving those objectives, such as to ensure impact avoidance or minimization during construction and reclamation; to measure the effectiveness of avoidance, minimization and mitigation measures; to assess the effects of operations and maintenance activities, or to provide baseline information to help define treatments for historic properties with long-term concerns.
- j. A “Project Termination Plan” with provisions for the following programs to be implemented in the event that the undertaking is terminated for any reason:
- 1) A program outlining the steps to be taken in order to complete any data recovery that is in progress at the time of project termination; and
  - 2) A component outlining how analysis, interpretation, reporting, and curation for all historic properties will be completed.
- k. A Native American Graves Protection and Repatriation Act (of 1990 (25 U.S.C. 3002; 104 Stat. 3048; NAGPRA) Plan of Action (POA) which includes methods and procedures for the discovery and/or treatment of human remains, associated funerary objects, and sacred objects that reflect any concerns and/or conditions identified as a result of consultations between the BLM and the appropriate Tribes. This POA will be consistent with 36 CFR § 800.13, NAGPRA and:
- 1) In Arizona on non-federal land, methods and procedures will be consistent with A.R.S. § 41-844 and A.R.S. §41-865 along with ASM rules.
  - 2) In New Mexico on non-federal land, the methods and procedures will be consistent with NMSA 1978, § 18-6-11.2 and 4.10.11 NMAC.
  - 3) In Arizona, the Applicant, working through the ASM, shall obtain “burial agreements” with Indian tribes pursuant to A.R.S. § 41-844 and A.R.S. § 41-865, that govern discoveries of human remains and funerary objects on state and private lands. The ASM shall invite tribes expressing interest in the Undertaking to participate in development of burial agreements. The ASM shall provide

participating tribes, the Applicant and the BLM with a draft of the burial agreement for a 30 calendar day review.

- l. A strategy for cultural resource law and sensitivity training for all Undertaking personnel (including new, added, and replaced personnel) and contractors involved in transmission line construction, construction zone rehabilitation, operation, maintenance of this transmission line. Instruction will be to a degree commensurate with their involvement in the Undertaking and will include information on the statutes protecting cultural resources, resource sensitivity, and requirements to avoid damage to historic properties and to report discoveries of cultural resources in accordance with the monitoring and discovery plan. Indian tribes will be provided opportunities to participate in the training program, which could be offered by a variety of means including training sessions, video programs, or printed materials.
- m. A strategy for a public outreach program to disseminate information about the results of the cultural resource work to the general public. This program may include the following: a short report written specifically for the public, a brochure, exhibits for use at public outreach venues such as archaeology awareness fairs, slide or PowerPoint presentation, presentations to local historical and archaeological societies, website and/or social media content or a traveling museum exhibit.
- n. A variance review process to be used during operation and maintenance to address any changes in procedure that could have an adverse effect on historic properties in the ROW.
- o. A list of operation and maintenance activities that will not be subjected to additional Section 106 review.
- p. A list of operation and maintenance activities that would require additional Section 106 review.

#### B. Process for Developing the Historic Property Treatment Plan

1. The Applicant shall submit the draft HPTP to the BLM for initial review and comments. The BLM shall provide the SHPO and other Consulting Parties within each state a copy for review, requesting comments on the adequacy of the proposed treatment measures. These parties will have 30 calendar days to review and comment on the plan. If no comments are submitted to the BLM within the 30 calendar-day review period, concurrence with the draft HPTP will be assumed.
  - a. During this review time, the ASM shall invite tribes expressing interest in the Undertaking to participate in development of Burial Agreements. The ASM shall

provide participating tribes with a draft of the Burial Agreement for a 30 calendar day review.

- b. The BLM will convene at least one consultation meeting in each state with all interested Consulting Parties during the 30-day period.
2. The BLM shall consolidate the comments from Consulting Parties in each state and advise the Applicant of necessary revisions to the draft HPTP. The BLM shall ensure that all comments are taken into consideration in finalizing the HPTP and that the revised HPTP is distributed to all Consulting Parties for a 21 calendar-day review period. The BLM, in consultation with the SHPO, shall approve the final HPTP. The BLM will notify the Applicant and the Consulting Parties when the final HPTP has been approved.
- C. The BLM shall ensure that all measures in the HPTP are carried out, including data recovery, analyses of recovered materials, and all reporting requirements. The Applicant shall provide the BLM a Summary Report of treatment completed at each site. The Summary Report will include a brief characterization of site assemblage/contents, the types of analyses yet to be completed, and a brief description of how the provisions of the HPTP were implemented.
- D. The BLM shall review the Summary Report of treatment that has occurred at each site and provide a copy to the appropriate SHPO and all other Consulting Parties for review, requesting comments and concurrence with eligibility determinations for previously undetermined cultural resources and discoveries, within 15 calendar days. The BLM shall consider comments submitted during the review period and shall consult with the appropriate reviewer(s) to resolve differences and/or disagreements. If no comments are received within the 15 calendar-day review period, concurrence with the adequacy of the treatment described in the preliminary summary will be assumed.
- E. The BLM shall ensure that the Applicant prepares draft Treatment Reports for each state that incorporate the results of all the site-specific preliminary summaries into a comprehensive regional overview that can be addressed separately to each state. The Final Treatment Reports will also include:
  1. Post-treatment eligibility recommendations for historic properties that have been subjected to treatment measures.
  2. A listing of historic properties for which post-construction monitoring would be appropriate, and the reasons for this (i.e., proximity to Undertaking components with the potential for damage from operations and maintenance, percentage of property remaining in ROW, sensitivity of the property, a property identified as being of particular importance to a tribe(s), etc.).
  3. The objectives that monitoring could achieve as part of the effort to avoid, minimize, and/or mitigate adverse effects to those properties.

- F. The BLM shall review the draft Treatment Reports and provide a copy to the appropriate SHPO and other Consulting Parties for a 30 calendar-day review and comment period. The BLM shall consider comments received during the review period and shall consult with the appropriate reviewer(s) to resolve differences and/or disagreements. If no comments are received within 30 calendar days, concurrence with the adequacy of the Treatment Report will be inferred.
- G. The BLM shall ensure that the Applicant prepares a revised Treatment Report that considers comments received on the draft Treatment Report. The BLM shall review the revised Treatment Report and provide copies to the appropriate SHPO and other Consulting Parties for a 30 calendar-day review period. The BLM shall consider comments submitted during the review period and shall consult with the appropriate reviewer(s) to resolve differences and/or disagreements. If no comments are received within 30 calendar days, concurrence with the adequacy of the revised Treatment Report will be assumed and the revised Treatment Report shall be considered the final Treatment Report. The BLM shall notify the Applicant when the final Treatment Report has been accepted and will distribute it to the Consulting Parties, if necessary.
- H. During the Treatment phase, if deviations to the approved plan are warranted, then prior to implementation, proposed deviations from the HPTP will be submitted to the BLM for review. The BLM shall provide copies of the proposed deviation to the appropriate SHPO, the ASM and land manager(s) within the respective state for a 15-calendar day review. The BLM shall consider comments received within the review period and shall determine the adequacy of the proposed deviation. The BLM will notify the Applicant when the deviation has been approved.

#### V. Construction Variance Review Process

- A. All construction needs cannot be anticipated in advance, and areas required for additional work space, access roads, ancillary facilities, reroutes, etc. may be identified at any time following the acceptance of the Inventory Report(s) by the appropriate SHPO and land managing agencies. Any newly identified construction needs which would result in ground disturbing activities outside of the surveyed areas identified in the Inventory Report will result in the submission of a request for variance review to the BLM. The following process for review and approval of construction variances will be used.
  1. The APEs of all variance areas will be consistent with those defined in Stipulation I.A.
  2. All variance areas will be subject to a Class I Existing Data Inventory review, and a Class III Intensive Field Inventory.
  3. If the proposed variance will affect more than ten (10) acres of land or more than one (1) mile of road, the BLM will provide the Consulting Parties with a description and map of the variance.

- B. If no cultural resources or properties of traditional cultural or religious importance to tribes and ethnic groups are present within the variance APE, the results of the Class I and Class III inventories will be reported on BLM Form AZ-8110-4 Cultural Resource Project Record (for Arizona) or the New Mexico Cultural Resource Information System (NMCRIS) Investigation Abstract Form (NIAF) (for New Mexico) prior to any access or use. The BLM will provide an expedited review of the variance request, not to exceed two (2) working days following receipt, and will provide the Applicant's cultural resources contractor with written approval/disapproval of the variance via electronic mail.
- C. If cultural resources or properties of traditional cultural or religious importance to tribes and ethnic groups are present within the variance APE, an Inventory Report, as defined in Stipulation I.C., above, will be prepared and submitted to BLM and the appropriate SHPO, tribes, and land manager for review. Understanding that variance requests may be necessary in the midst of construction activities, the agencies will provide an expedited review within five (5) working days or less. If no objections to the variance are received, at the end of the five day period, BLM shall provide the Applicant's cultural resources contractor with written approval of the variance via electronic mail. If objections are received, additional consultation regarding the variance will ensue in accordance with the provisions of this Agreement.
1. If historic properties exist in the variance APE and cannot be avoided, a treatment plan for those properties will be developed and shall be consistent with the HPTP developed pursuant to Stipulation IV of this Agreement.
  2. Review procedures shall follow Stipulation IV.D.
  3. The supplemental treatment plan shall be incorporated into the HPTP and a preliminary summary report will be prepared and distributed in accordance with Stipulation IV.D.
  4. The BLM shall ensure that the results of such treatment efforts are reported in the final Treatment Report for the Undertaking.
  5. Once the BLM determines that the approved treatment has been completed, the BLM shall provide the Applicant's cultural resources contractor with written approval of the variance via electronic mail.

## VI. Authorization of Construction

- A. **No Historic Properties Present:** Upon the BLM's acceptance of the final Inventory Report for each state, described in Stipulation II., the BLM, at its discretion, and pending compliance with all other applicable laws and regulations, may authorize the Applicant to begin construction on lands under any ownership or jurisdiction, subject to the appropriate jurisdiction's right-of-entry and ROW requirements, where there are no historic properties present.



- B. **No Adverse Effect:** Upon the BLM's acceptance of the final HPTP for each state, the BLM, at its discretion, and pending compliance with all other applicable laws and regulations, may authorize the Applicant to begin construction on lands under any ownership or jurisdiction, subject to the appropriate jurisdiction's right-of-entry and ROW requirements, where all effects to historic properties and unevaluated cultural resources will be avoided (as described in the approved HPTP) subject to the appropriate jurisdiction's right-of-entry and ROW requirements. Such authorization shall not preclude consideration of alternatives for treating historic properties in other segments.
- C. **Adverse Effect:** Following acceptance of the Summary Report of treatment that has occurred at each site described in Stipulation IV.E, the BLM, at its discretion, and pending compliance with all other applicable laws and regulations, may authorize the Applicant to begin construction on lands under any ownership or jurisdiction where provisions of the HPTP have been implemented, subject to the appropriate jurisdiction's right-of-entry and ROW requirements.

## VII. Discoveries during the Undertaking

- A. If potential historic properties are discovered, or unanticipated effects occur to known historic properties, the BLM will implement the Monitoring and Discovery Plan. This plan will be included as a standalone appendix to the HPTP (see Stipulation IV.4.i) and will incorporate stipulations 1-4.
1. The Applicant shall ensure that all surface-disturbing activities within 100 feet of the discovery immediately cease and that measures are taken to protect the cultural resources. The Applicant shall notify the BLM of the discovery within 24 hours. The BLM shall immediately notify the appropriate SHPO, tribe(s) and any other agency having jurisdiction over the land involved.
  2. If the discovered cultural resource is subsequently identified by an Indian tribe as a property of traditional religious and cultural importance, the BLM shall consult with the appropriate tribe(s).
  3. In Arizona on non-federal lands, the BLM shall ensure that the discoveries are treated according to A.R.S. § 41-844.
  4. In New Mexico on non-federal land, the BLM shall ensure that discoveries follow the process in 4.10.8.20 NMAC.
- B. Treatment of the discovered cultural resources shall be consistent with the HPTP developed pursuant to Stipulation IV of this Agreement and shall consider NRHP eligibility of the resource in accordance with 36 CFR § 800.13(c), which assumes eligibility.

1. A preliminary summary report with eligibility recommendations(s) will be prepared and distributed in accordance with Stipulation IV.D. The BLM shall ensure that the results of such treatment efforts are reported in the final Treatment Report for the Undertaking.
  2. Once the BLM determines that the approved treatment has been completed, the Applicant may resume construction upon receiving written authorization from the BLM.
- C. If human remains, funerary objects, or objects of cultural patrimony are discovered, BLM will follow the provisions of applicable, state and local laws, Burial Agreements (in Arizona) and the NAGPRA POA for the Undertaking, which will be included as an appendix to the HPTP.
1. In Arizona, the Applicant shall promptly report the discovery of human remains to the BLM, who shall notify the ASM Repatriation Coordinator pursuant to A.R.S. § 41-844 (state lands), and pursuant to A.R.S. § 41-865 (private lands).
  2. In New Mexico, the Applicant shall report the discovery of human remains to the BLM and local law enforcement and treat such discoveries of human remains on non-federal lands consistent with §18-6-11.2 of the *Cultural Properties Act NMSA, 1978*.
  3. Once the BLM has verified that the requirements of NAGPRA or of state laws governing nonfederal and nontribal lands have been met, the BLM may authorize the Applicant to proceed with construction.

#### VIII. Standards for Conducting and Reporting Work

- A. The BLM shall ensure that all work and reporting performed under this Agreement meets, at a minimum, the *Secretary of the Interior's Standards and Guidelines for Archaeological and Historic Preservation* (48 CFR 44716-44742, September 23, 1983) (the Secretary's Standards) and takes into consideration the ACHP's *Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites*, May 1999, *Procedures For Performing Cultural Resource Fieldwork On Public Lands in the Area of New Mexico State BLM Responsibilities* BLM Manual Supplement H-8100-1 and *Guidelines for Identifying Cultural Resources* BLM Manual H-8110 and *Guidelines for Evaluating and Documenting Traditional Cultural Properties*, National Register *Bulletin 38*, 1989.
1. In Arizona, on state land, including municipalities, counties and other political subdivisions, all activities and documentation shall be consistent with the AAA, A.R.S §41-841 *et seq.* and the Arizona State Historic Preservation Act A.R.S. §41-861 *et seq.* along with rules for implementing the AAA and AZ SHPO guidance on implementing the Arizona State Historic Preservation Act, and shall conform to specifications and guidelines contained in *Reporting Standards: Part I and Part II, Standards for Conducting and Reporting Cultural Resource Surveys on State Lands and Recommended Standards for Monitoring, Testing and Data Recovery*, available online at:

<http://www.statemuseum.arizona.edu/frame/index.php?doc=/crservices/standards.pdf>

Additionally, *AZ SHPO Standards for Documents Submitted for SHPO Review in Compliance with Historic Preservation Laws* (Revised December 2012) shall guide reports for all work done in Arizona, available online at:

[http://azstateparks.com/SHPO/downloads/SHPO\\_2012\\_Report\\_Standards.pdf](http://azstateparks.com/SHPO/downloads/SHPO_2012_Report_Standards.pdf)

2. In New Mexico, on state land, including municipalities, counties and other political subdivisions, all activities and documentation shall be consistent with the standards in rule 4.10.15 New Mexico Administrative Code (NMAC). All activities and documentation on state land shall be consistent with the appropriate state standards found in rules 4.10.8 NMAC, *Permits to Conduct Archaeological Investigations on State Land*; 4.10.15 NMAC, *Standards for Survey and Inventory*; 4.10.16 NMAC, *Standards for Excavation and Test Excavation*; and 4.10.17 NMAC, *Standards for Monitoring*. The rules are available online at:

<http://www.nmcpr.state.nm.us/nmac/parts/title04/04.010.0008.htm>

<http://www.nmcpr.state.nm.us/nmac/parts/title04/04.010.0015.htm>

<http://www.nmcpr.state.nm.us/nmac/parts/title04/04.010.0016.htm>

<http://www.nmcpr.state.nm.us/nmac/parts/title04/04.010.0017.htm>

- B. In Arizona, the Applicant shall ensure that its cultural resources contractor obtains an AAA project-specific permit from the ASM prior to excavating sites on state lands pursuant to A.R.S. §41-841 et. seq.
- C. In New Mexico, the Applicant shall ensure that its cultural resources contractor obtains a Project-specific excavation permit or other appropriate permit from the Cultural Properties Review Committee prior to excavating sites on state lands owned, operated or controlled by the State of New Mexico pursuant to §18-6-50 of the *Cultural Properties Act NMSA 1978*. For NMSLO lands the Applicant shall obtain the appropriate rights-of-entry from the NMSLO concurrently with the permit application. The Applicant shall ensure that its cultural resources contractor obtains a permit prior to excavating unmarked human burials on state or private land pursuant §18-6-11.2 of the *Cultural Properties Act NMSA 1978* or conducting mechanical excavation of archaeological sites on private land in the State of New Mexico pursuant to §18-6-11.2 of the *Cultural Properties Act NMSA 1978*.

## IX. Confidentiality of Records

BLM will maintain confidentiality of sensitive information regarding historic properties to which a tribe attaches religious or cultural significance to the maximum extent allowed by federal and state law. However, any documents or records the BLM has in its possession are subject to the Freedom of Information Act (FOIA) (5 U.S.C. 552 et. seq.) and its exemptions, as applicable. In the event that a FOIA request is received for records or documents that relate to a historic property to which an Indian tribe attaches religious or cultural significance and that contain information that BLM is authorized to withhold from disclosure by other statutes including the

NHPA and the Archaeological Resources Protection Act, then, the BLM will consult with such tribe prior to making a determination in response to such a FOIA request not to withhold particular records and/or documents from disclosure.

X. Curation

The Applicant shall arrange curation agreements with repositories approved by the BLM. The BLM shall ensure that all artifacts and records resulting from the inventory and treatment program are curated in accordance with 36 CFR Part 79, except as determined through consultations with Indian tribes carried out in accordance with federal and state laws pertaining to the treatment and disposition of Native American human remains and funerary objects.

- A. All artifacts recovered from lands owned, controlled, or operated by the State of New Mexico, including associated records and documentation, shall be curated at the Museum of New Mexico, Museum of Indian Arts and Culture.
- B. All artifacts recovered from lands owned, controlled, or operated by the State of Arizona, including associated records and documentation, shall be curated at the Arizona State Museum and in accordance with the standards and guidelines required by ASM.

XI. Undertaking Monitoring, Annual Reporting, and Evaluation

The BLM will be responsible for monitoring activities associated with this Undertaking on all jurisdictions during construction and reclamation.

- A. The BLM will select a 10 percent sample of cultural resources found during the inventory and conduct field inspections while accompanied by the Cultural Resources Contractor (CRC) to provide input regarding NRHP eligibility and possible future treatment options.
- B. The BLM will select a 10 percent sample of historic properties identified for mitigation of adverse effects, and conduct field inspections at those historic properties to ensure adequate implementation of the HPTP for those historic properties.
- C. The lead BLM office shall prepare an annual letter report of cultural resources activities pertaining to this Undertaking for all Consulting Parties by December 31 for the duration of this PA. The annual letter report will include an update on project schedule, status, and any ongoing relevant cultural resources monitoring or mitigation activities, discovery situations, or outstanding tasks to be completed under this Agreement or the HPTP. The implementation and operation of this PA shall be evaluated on an annual basis by the Consulting Parties. This evaluation, to be conducted after the receipt of the BLM letter report, may include in-person meetings or conference calls among these parties, and suggestions for possible modifications or amendments to this Agreement.
- D. The BLM shall monitor activities pursuant to this Agreement. Terms and conditions of monitoring activities are described in the Monitoring and Discovery Plan. Should the

Applicant or its cultural resources contractor fail to comply with any provision of this Agreement, the BLM may, at its discretion, counsel the Applicant and/or its cultural resources contractor regarding performance requirements, or suspend the permit under which this Agreement is executed. Such suspension would result in the issuance of a “stop work” order for the entire Project.

- E. The BLM will retain responsibility to inspect for compliance with the terms and conditions of the BLM ROW grant pertaining to historic properties, and that the appropriate cultural resources specialist will participate in these compliance reviews, for the life of the grant.

## XII. Operation and Maintenance of the Transmission Line and Facilities

- A. After construction of the transmission lines, the Applicant (ROW grant holder) will be required to follow all of the terms, conditions and stipulations concerning the operation, maintenance and decommissioning of the lines which are included in the Plan of Development (POD) and the ROW grants. These terms, conditions and stipulations will include any provisions identified in the HPTP that resolve potential adverse effects to historic properties identified within the ROW.
  1. The BLM will be responsible for ensuring that the stipulations in the BLM ROW grant are enforced.
  2. The ASLD will be responsible for ensuring that the stipulations in their ROW grant are enforced on ASLD administered lands.
  3. The NMSLO will be responsible for ensuring that the stipulations in their ROW grant are enforced on NMSLO administered lands.
- B. Post-construction evaluation and management of historic properties: see Stipulation IV.E.
- C. Should any variance be necessary during operations and maintenance, the variance procedure in the HPTP will be followed and a BLM cultural resource specialist will review the action and make recommendations regarding potential effects and appropriate actions to avoid, minimize, or mitigate any adverse impacts (e.g., using hand tools if mechanical vegetation treatments are proposed in sensitive areas).

## XIII. Decommissioning

Should decommissioning of the transmission line and associated facilities be deemed necessary, the ROW grant shall stipulate and the BLM shall ensure that it will be considered a new action for Section 106 review, and that historic properties potentially affected by decommissioning will be considered in the BLM approved Termination and Reclamation Plan in accordance with the pertinent laws, regulations, and policies extant at the time.

#### XIV. Dispute Resolution

Should any Consulting Party to this PA object at any time to any actions proposed or the manner in which the terms of this PA are implemented, the BLM shall consult with such party to resolve the objection. If the BLM determines that such objection cannot be resolved, the BLM will:

- A. Forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the ACHP. The ACHP shall provide BLM with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, Consulting Parties, and provide them with a copy of this written response. BLM will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the BLM shall prepare a written response that takes into account any timely comments regarding the dispute from the Consulting Parties to the PA, and provide them and the ACHP with a copy of such written response.
- C. The BLM will be responsible for carrying out all other actions subject to the terms of this PA that are not the subject of the dispute.

#### XV. Amendments and Termination

- A. Any Signatory or Invited Signatory to this Agreement may request that it be amended by informing BLM in writing of the reason for the request and the proposed amendment language, whereupon BLM shall inform the other parties and request their views concerning the proposed amendment. All Signatories and Invited Signatories must agree to the amendment before it shall take effect.
- B. Any Signatory or Invited Signatory to this Agreement may terminate it by providing 30 calendar days written notice to the other Signatories and Invited Signatories, provided that they consult during the 30 calendar-day period prior to termination to seek agreement on amendments or other actions that would avoid termination.
- C. In the event that this Agreement is terminated, the BLM shall comply with 36 CFR § 800.3 through 800.7 with regard to individual actions covered by this Agreement.

## XVI. Term of the Agreement

This PA will expire if the Undertaking has not been initiated within 3 years of the signing of this PA, or the BLM ROW grant expires or is withdrawn. Otherwise, this Agreement shall take effect from the date of execution and will remain in effect for 15 years or until acceptance of the final Treatment Reports by the Signatories.

The Execution and Implementation of this Agreement evidences that the BLM, as lead federal agency, has satisfied its Section 106 responsibilities with regard to the construction, operation, and maintenance of the SunZia Transmission Project.

Nothing in this agreement may be construed to obligate either party to any current or future expenditure of resources in advance of the availability of appropriations from Congress. Nor does this agreement obligate the parties to expend, exchange, or reimburse funds, services, or supplies or transfer or receive anything of value on any particular project or purpose, even if funds are available. Subject to the availability of funding, each party intends to assume responsibility for its respective costs arising from any activity related to this Programmatic of Agreement, including cost of transportation, lodging, board, and salary of personnel involved.

## SIGNATURES

### SIGNATORIES:

BUREAU OF LAND MANAGEMENT, NEW MEXICO STATE OFFICE  
 ARIZONA STATE HISTORIC PRESERVATION OFFICER  
 NEW MEXICO STATE HISTORIC PRESERVATION OFFICER  
 ADVISORY COUNCIL ON HISTORIC PRESERVATION

### INVITED SIGNATORIES:

SUNZIA TRANSMISSION, LLC.  
 ARIZONA STATE LAND DEPARTMENT  
 ARIZONA STATE MUSEUM  
 NEW MEXICO STATE LAND OFFICE  
 ARIZONA DEPARTMENT OF TRANSPORTATION  
 NEW MEXICO DEPARTMENT OF TRANSPORTATION  
 ARMY CORPS OF ENGINEERS, ALBUQUERQUE DISTRICT

### CONCURRING PARTIES:

TOHONO O'ODHAM NATION  
 SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY  
 GILA RIVER INDIAN COMMUNITY  
 ISLETA DEL SUR TRIBAL GOVERNMENT  
 WHITE MOUNTAIN APACHE TRIBE  
 COMANCHE INDIAN TRIBE  
 FORT SILL APACHE TRIBE OF OKLAHOMA  
 KIOWA TRIBE OF OKLAHOMA  
 MESCALERO APACHE TRIBE  
 PUBELO OF ISLETA  
 HOPI TRIBAL COUNCIL  
 SAN CARLOS APACHE TRIBE  
 ARIZONA ARCHAEOLOGICAL COUNCIL  
 NEW MEXICO ARCHAEOLOGICAL COUNCIL  
 NATIONAL TRUST FOR HISTORIC PRESERVATION  
 CAMINO REAL DE TIERRA ADENTRO TRAIL ASSOCIATION (CARTA)  
 ARCHAEOLOGY SOUTHWEST  
 CASCABEL WORKING GROUP  
 WHITE SANDS MISSILE RANGE  
 ALLIANCE FOR REGIONAL MILITARY SUPPORT (ARMS)  
 PIMA COUNTY



**ATTACHMENT 1:  
UNDERTAKING DESCRIPTION**

The SunZia Southwest Transmission Project will include up to two new, single-circuit 500 kV transmission lines located within a single right-of-way up to 1,000 feet wide (typically 400 feet wide) over a lease term of 50 years. The approximately 500-mile-long transmission line route will originate at the proposed SunZia East Substation in Lincoln County, New Mexico, and terminate at the Pinal Central Substation in Pinal County, Arizona. The Project would be located within Lincoln, Socorro, Sierra, Luna, Grant, Hidalgo, and/or Torrance counties in New Mexico; and Graham, Greenlee, Cochise, Pinal, and/or Pima counties in Arizona, on Federal (BLM), State, and private lands. SunZia would construct, operate, and maintain up to two, parallel overhead 500 kV transmission lines and related facilities. The purpose of the proposed project is to transport electricity generated by renewable and other resources to western power markets and load centers.

**ATTACHMENT 2: MAP OF PROJECT AREA**

### **ATTACHMENT 3: DEFINITIONS USED IN THIS PA**

**Adverse Effect** – Alteration of the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register of Historic Places.

**Area of Potential Effect (APE)** – The geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking (36 CFR § 800.16(d)).

**Authorized Officer** – The Authorized Officer for this undertaking is the BLM New Mexico State Director and/or his or her delegated representative.

**Consultation** – The process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters that arise in the Section 106 process. The Secretary's "Standards and Guidelines for Federal Agency Preservation Programs pursuant to the National Historic Preservation Act" provide further guidance on consultation.

**Consulting Party** – Any party that has participated in the development of this PA (i.e., Concurring Party, Invited Signatory, and Signatory) and has signed the PA in concurrence.

**Signatory** – Parties who have legal or financial responsibilities for completions of stipulations of the Agreement. The signatories have sole authority to execute the Agreement, and together with the invited signatories, to amend or terminate the Agreement.

**Invited Signatory** – The authorized official may invite additional parties to sign the agreement and they have the same rights with regard to amendments and termination as the signatories. These parties have legal responsibility in terms of the Project, such as the issuance of a permit, license or ROW, and they have a compliance responsibility under the NHPA or a state cultural resource statute.

**Concurring Party** – A party who signs this Agreement but is not legally, or financially, responsible for completion of stipulations set forth in the Agreement. The refusal of any party invited to concur in the Agreement does not invalidate the Agreement.

**Construction** – The construction phase begins when BLM has issued a ROW grant to the proponent for the Undertaking. It includes all activities related to construction of the undertaking, including activities required to be completed in advance of construction, as well as all activities completed in order to reclaim lands disturbed during construction for two years after construction is completed or until cost recovery agreements related to construction expire.

**Cultural Resource** – Any location of human activity, occupation, or use identifiable through field inventory, historical documentation, or oral evidence that is older than 50 years. The term includes archaeological, historic, or architectural sites, landscapes, buildings, structures, objects, and places

that possess historic and/or cultural significance as well as places with important public and scientific uses, and may include definite locations (sites or places) of traditional cultural or religious importance to specified social and/or cultural groups. They may be but are not necessarily eligible for the NRHP; these properties have not been evaluated for NRHP eligibility.

**Cultural Resource Consultant/Contractor (CRC)** – A qualified and permitted professional consultant in cultural resources (archaeologist, historian, ethnographer, historic architect, architectural historian, or anthropologist) who is responsible for implementing cultural resource inventories and who prepares cultural resource documents, reports, analysis, records, and professional literature. CRCs must meet the Secretary of the Interior's Professional Qualification Standards and hold appropriate permits from land managing agencies.

**Cultural Resource Inventory (from H-8100-1) –**

**Class I** – Existing data inventory. Large-scale review of known cultural resource data

**Class II** – Sampling field inventory. Sample oriented field inventory

**Class III** – Intensive field inventory. A complete surface inventory of a specific area involving a systematic field examination of an area to gather information regarding the number, location, condition, distribution, and significance of cultural resources present, typically requiring a systematic pedestrian review of an area with transect intervals that shall not exceed 50' (15 meters). Also referred to as a Class III survey, Class III Inventory, or intensive level survey.

**Decommissioning** – The action in which the transmission line(s) and/or related facilities such as substations are taken out of commission (cease to operate) and are physically dismantled

**Discovery** – A previously unknown cultural resource identified in the APE during construction, subsequent to the Class III Inventory.

**Effects** are alterations to the characteristics of a historic property qualifying it for inclusion in or eligibility for the NRHP.

**Direct effects** are caused by the undertaking and occur at the same time and place.

**Indirect effects** are also caused by the undertaking and are effects that may be visual, atmospheric, or audible that could diminish the integrity of the properties for which setting feeling, and/or association are qualifying characteristics of NRHP eligibility. Additional roads and visitors to the area (construction personnel, recreationists, etc.) also increase opportunities for effects from pot hunting, vandalism of historic properties, and disruption of spiritually important sites.

**Cumulative effects** are the impacts on cultural resources which results from the incremental impact of the Undertaking when added to other past, present and reasonably foreseeable future actions regardless of what agency (Federal or non-federal) or person undertakes such other actions [per 40.CFR1508.7]. The APE for cumulative effects may be direct or indirect and result from incremental effects related to the Undertaking over time (e.g. increased access because of new

roads, future transmission lines along the same corridor, new projects feeding into the Undertaking, etc.).

**Eligible** (for Inclusion in the National Register) – Includes both properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria as determined by the Federal Agency in consultation with SHPO and other parties.

**Historic Property** – Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.

**Historic Property(ies) Treatment Plan (HPTP)** – A document that details the procedures and techniques for resolving adverse effects to historic properties within the APE through avoidance, minimization, and/or mitigation.

**Indian Tribe** – Any Indian tribe, band, nation, or other organized group or community, including a native village, regional corporation, or village corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**Inventory Report** – The inventory report documents the results of the cultural resources inventory detailing the areas surveyed, the methodologies used, the cultural framework of the project area and the cultural resources discovered and documented. It includes assessments of direct, indirect and cumulative effects within the APE of the Undertaking. It also provides recommendations on National Register eligibility of all of the cultural resources within the inventoried area.

**Monitoring and Discovery Plan** – The Monitoring and Discovery Plan is a component of the HPTP and a) provides a detailed plan to monitor compliance with stipulations of the HPTP to avoid, minimize, or mitigate adverse effects of the Undertaking, b) may include specific plans where monitoring is necessary to help resolve adverse effects to historic properties, c) establishes procedures to follow in the event that previously undiscovered cultural resources are encountered during the Undertaking, and d) includes a POA developed specifically to address the handling of human remains pursuant to the Native American Graves Protection and Repatriation Act (NAGPRA) and applicable state laws. All monitoring plans shall explicitly state the objectives of the monitoring and provide a methodology for attaining these objectives.

**Monitoring Report** – A document that summarizes the results of monitoring activities performed as outlined within the HPTP.

**NAGPRA Plan of Action (POA)** – A document that establishes procedures for ensuring the proper treatment of Native American remains and related grave goods encountered on Federal lands pursuant to 43 CFR § 10.

**National Register** – The National Register of Historic Places is the official list of the Nation's prehistoric and historic places worthy of preservation including districts, cultural resources, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture and is maintained by the Secretary of the Interior.

**National Register Criteria** – The criteria of significance established by the Secretary of the Interior for use in evaluating the eligibility of properties for inclusion in the National Register (36 CFR § 60).

**Operations and Maintenance** – Activities associated with operation and maintenance of the approved ROW grant over the life of the ROW grant. This includes all activities related to the functioning of the Undertaking after construction and reclamation are completed and prior to any activities related to decommissioning of the Undertaking, per Stipulation XII. Activities during this this time are generally infrequent, predictable, and routine. Any actions not specifically approved in the ROW grant, such as changes in equipment used or actions outside the ROW, require approval of the BLM.

**Plan of Development (POD)** – The Final POD is a BLM approved document that will be an enforceable term and condition as part of the BLM approved right-of-way authorization. Contributors in the development of the Final POD prior to construction will include the Arizona State Land Department and New Mexico State Land Office. The Arizona and New Mexico surface managing agencies will be responsible for developing and enforcing their respective stipulations as they deem necessary to mitigate natural and cultural resource impacts, on state administered lands. Should the Arizona and New Mexico agencies choose to adopt the terms, conditions, and special stipulations as outlined in the Final POD on their respective state authorized rights-of-ways, responsibility to enforce these Final POD terms, conditions, and stipulations is strictly their sole responsibility. Enforcement will be between the state agency and the applicant.

**Programmatic Agreement** – A document that records the terms and conditions agreed upon to resolve the potential adverse effects of a Federal agency program, complex Project or other situations in accordance with 36 CFR § 800.14(b).

**Right-of-Way grant, (ROW)** – An easement of land granted for certain rights of use without possessing it. The PA and the HPTP are appended to the POD, which is an essential component of the ROW grant.

**Section 106** – Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by ACHP. Revised regulations, "Protection of Historic Properties" (36 CFR Part 800), became effective August 5, 2004.

**State Historic Preservation Officer (SHPO)** – The official appointed or designated pursuant to section 101(b)(1) of the act to administer the State Historic Preservation Program or a representative designated to act for the State Historic Preservation Officer.

**Summary Report** – A document that summarizes results of treatment activities undertaken on an individual historic property for the purposes of informing the agency and Consulting Parties for the purposes of gaining approval for the Project to go forward prior to the acceptance of the final Treatment Report.

**Treatment Report** – A document that presents the complete results of the treatment activities performed on all historic properties (and any undetermined cultural resources for which additional studies were performed to determine eligibility) that addresses the research questions developed in the Treatment Plan and synthesizes the results into a regional overview of the Project Area.

**Undertaking** – A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval. The Undertaking may include surveys, geotechnical testing, engineering, mitigation planning and design, or other activities initiated prior to construction of project facilities.