KOP U3-15. Existing view toward the representative ROW from the river crossing along the trail near Juhan Park, a Tucson City park.

FIGURE B-70
KOP U3-15. View from Santa Cruz Riverbed
Southline Transmission Project

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KOP U3-16. Existing view toward the representative ROW from Silverbell Golf Course, a Tucson City public golf course.

FIGURE B-71
KOP U3-16. View from Silverbell Public Golf Course
Southline Transmission Project

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A. KOP U3-17. Existing view toward the representative ROW from Christopher Columbus Park, a Tucson City park.

B. KOP U3-17. Simulated view toward the representative ROW from Christopher Columbus Park, a Tucson City park.

FIGURE B-72
KOP U3-17. View from Silverbell Lake
Southline Transmission Project

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KOP U3-18. Existing view toward the representative ROW from a rural residential area along Cruz River near Pima County.

FIGURE B-73
KOP U3-18. View from Rural Residential Area along Cruz River
Southline Transmission Project

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KOP U3-19. Existing view toward the representative ROW from West Picture Rocks Road, located at entry to Saguaro National Park.

FIGURE B-74
KOP U3-19. View from Saguaro National Park Entrance
Southline Transmission Project

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KOP U3-20. Existing view toward the representative ROW from a residential area near the community of Marana.

FIGURE B-75
KOP U3-20. View from Wade Road
Southline Transmission Project

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KOP U3-21. Existing view toward the representative ROW looking through a mixed commercial and residential area, southeast of Rattlesnake Ridge.

FIGURE B-76
KOP U3-21. View from North Silverbell Road
Southeast of Rattlesnake Ridge
Southline Transmission Project

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A. KOP U3-22. Existing sensitive view toward the representative ROW along West Twin Peaks Road, northwest of Rattlesnake Ridge.

B. KOP U3-22. Simulated sensitive view toward the representative ROW along West Twin Peaks Road, northwest of Rattlesnake Ridge.

FIGURE B-77
KOP U3-22. View from West Twin Peaks Road
Southline Transmission Project

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A. KOP U3-23. Existing view toward the representative ROW from a rural residential area along Silverbell Road historic auto route.

B. KOP U3-23. Simulated view toward the representative ROW from a rural residential area along Silverbell Road historic auto route.

FIGURE B-78
KOP U3-23. View from Silverbell Road
Historic Auto Route
Southline Transmission Project

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KOP U3-24. Existing view toward the representative ROW from Red Rock residential area in Pima County.

FIGURE B-79
KOP U3-24. View from Red Rock
Southline Transmission Project

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A. KOP 3b2. Existing view toward the representative ROW (Segment TH3b) from the bike trail just east of the river bed and west of Interstate 10.

B. KOP 3b2. Simulated view toward the representative ROW from (Segment TH3b) the bike trail just east of the river bed and west of Interstate 10.

FIGURE B-91
KOP 3b2. View from bike trial just east of river bed and west of Interstate 10
Southline Transmission Project

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A. KOP AN-04. Existing view toward the representative ROW (Segment U3i) from Christopher Columbus Park.

B. KOP AN-04. Simulated view toward the representative ROW (Segment U3i) from Christopher Columbus Park.

FIGURE B-84
KOP AN-04. View from Christopher Columbus Park
Southline Transmission Project

A. KOP AN-12. Existing view toward the representative ROW (Segment U3k) from North Aguirre Road west of Pinal Airpark along a portion of a planned recreational trail.

B. KOP AN-12. Simulated view toward the representative ROW (Segment U3k) from North Aguirre Road west of Pinal Airpark along a portion of a planned recreational trail.

FIGURE B-88
KOP AN-12. View from North Aguirre Road west of Pinal Airpark
Southline Transmission Project

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A. KOP MA-02. Existing view toward the representative ROW (Segment U3j) from the intersection of Sanders Road and West Avra Valley Road.

B. KOP MA-02. Simulated view toward the representative ROW (Segment U3j) from the intersection of Sanders Road and West Avra Valley Road.

FIGURE B-87
KOP MA-02. View from the intersection of Sanders Road and West Avra Valley Road
Southline Transmission Project

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A. KOP MA-03. Existing view toward the representative ROW (Segment U3i) from the Marana Airport entrance located at West Avra Valley Road.

B. KOP MA-03. Simulated view toward the representative ROW (Segment U3i) from the Marana Airport entrance located at West Avra Valley Road.

FIGURE B-89
KOP MA-03. View from Marana Airport entrance
Southline Transmission Project

A. KOP SA-01. Existing view toward the representative ROW (Segment U3i) from the western portion of Saguaro National Park.

B. KOP SA-01. Simulated view toward the representative ROW (Segment U3i) from the western portion of Saguaro National Park.

FIGURE B-90
KOP SA-01. View from Saguaro National Park
Southline Transmission Project

A. KOP TH1-02. Existing view toward the representative ROW from the trail extending off of the parking area formed by Sentinel Peak Road S. looking west.

B. KOP TH1-02. Simulated view toward the representative ROW from the trail extending off of the parking area formed by Sentinel Peak Road S. looking west. Segment U3d is visible south of Starr Pass Boulevard. Segment TH1a is visible north of and along Starr Pass Boulevard.

FIGURE B-83
KOP TH1-02. View from trail located off of South Sentinel Peak Road looking west
Southline Transmission Project

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A. KOP TH1-S1. Existing view facing north toward the representative ROW (Segment U3e) from West Starr Pass Boulevard between South Coati Drive and South Bison Drive.

B. KOP TH1-S1. Simulated view facing north toward the representative ROW (Segment U3e) from West Starr Pass Boulevard between South Coati Drive and South Bison Drive.

FIGURE B-80
KOP TH1-S1. View from West Starr Pass Boulevard between South Coati Drive and South Bison Drive
Southline Transmission Project

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A. KOP TH1-S3. Existing view facing east toward the representative ROW from West Starr Pass Boulevard near Park W Lane.

B. KOP TH1-S3. Simulated view facing east toward the representative ROW from West Starr Pass Boulevard near Park W Lane. Segment TH1a is visible north of and along Starr Pass Boulevard. Segment U3d is visible south of Starr Pass Boulevard.

FIGURE B-81
KOP TH1-S3. View from West Starr Pass Boulevard near Park W Lane
Southline Transmission Project

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A. KOP TH1-S6. Existing view facing north toward the representative ROW (Segment TH1a) from North Greasewood Boulevard at West Broadway.

B. KOP TH1-S6. Simulated view facing north toward the representative ROW (Segment TH1a) from North Greasewood Boulevard at West Broadway.

FIGURE B-82
KOP TH1-S6. View from North Greasewood Boulevard at West Broadway
Southline Transmission Project

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A. KOP TH3-S1. Existing view toward the representative ROW (Segment TH3b) from South Sentinel Peak Road looking east.

B. KOP TH3-S1. Simulated view toward the representative ROW (Segment TH3b) from South Sentinel Peak Road looking east.

FIGURE B-86
KOP TH3-S1. View from South Sentinel Peak Road looking east
Southline Transmission Project

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A. KOP U3-18. Existing view toward the representative ROW (Segment U3i) from Juan Bautista de Anza National Historic Trail along North Silverbell Road near North Abington Road.

B. KOP U3-18. Simulated view toward the representative ROW (Segment U3i) from Juan Bautista de Anza National Historic Trail along North Silverbell Road near North Abington Road.

FIGURE B-85
KOP U3-18. View from Juan Bautista de Anza National Historic Trail
Southline Transmission Project

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Appendix L

DRAFT PROGRAMMATIC AGREEMENT

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
Tohono O'odham Nation
United States Forest Service, Coronado National Forest
The Bureau of Indian Affairs
The United States Army Corps of Engineers
The New Mexico State Land Office
The Arizona State Land Department
The Arizona State Museum
The University of Arizona
Pima County
Western Area Power Administration
and
Southline Transmission, LLC
Regarding the
Southline Transmission Project

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1. **Whereas,** Southline Transmission, LLC, intends to construct, operate and maintain the Southline Transmission Project (Undertaking) according to general parameters contained in the Project Plan of Development (POD), summarized in the Undertaking description (Attachment 1, in development) and;

2. **Whereas,** Western Area Power Administration (Western), an agency within the Department of Energy, owns and maintains transmission lines on rights-of-way (ROWs) in Arizona that may be upgraded as part of this Undertaking; and

3. **Whereas,** the Bureau of Land Management (BLM) intends to issue a ROW grant to Southline Transmission, LLC, for the construction, operation, and maintenance of the Undertaking, and the ROW grant will reference this Programmatic Agreement (PA); and

4. **Whereas,** this PA and the Historic Properties Treatment Plan (HPTP) that will be developed pursuant to this PA will be incorporated into the POD; and

5. **Whereas,** the Las Cruces District Office of the BLM is a Signatory to this PA and has been designated to serve as the lead Federal agency for the Undertaking and in consultation with other parties has determined that the Undertaking will have an adverse effect upon historic properties as defined in 36 Code of Federal Regulations (CFR) 800.16.l(1); and

6. **Whereas,** the BLM has consulted with the New Mexico State Historic Preservation Officer (SHPO) and the Arizona 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 PA; and

7. **Whereas,** the Undertaking crosses lands under the jurisdiction of the Tohono O'odham Nation, San Xavier District, and the BLM has consulted with the Tohono O'odham Nation, which is a Signatory to this PA; and

8. **Whereas,** the Tohono O'odham Nation has assumed the role of Tribal Historic Preservation Office for lands within the reservation boundaries; and

9. **Whereas**, no provision of this PA will be construed by any of the signatories as abridging or debilitating any sovereign powers of the Tohono O'odham Nation; affecting the trustee-beneficiary relationship between the Secretary of the Interior and Tohono O'odham Nation or individual Indian landowners; or interfering with the government-to-government relationship between the United States and the Tohono O'odham Nation; and

10. **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 historic properties (3-4-13) and the ACHP has agreed to participate to resolve adverse effects and is a Signatory to this PA (3-19-13); and

11. **Whereas**, should Western elect to acquire the land rights for the new build portion of the Undertaking in Arizona and New Mexico as part the Undertaking, Western will obtain temporary access rights as well as later permanent land rights in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, where land rights across each non-Federal land ownership parcel are appraised pursuant to Federal standards, and BLM invited Western to participate as an Invited Signatory to this PA; and

12. **Whereas,** the undertaking crosses lands under the jurisdiction of the U.S. Forest Service, Coronado National Forest (CNF), and the BLM has consulted with the CNF and has invited them to be an Invited Signatory to this PA; and

13. **Whereas,** the Bureau of Indian Affairs (BIA) is the agency responsible for issuing permits and approving ROWs on tribal and allotted lands of the Tohono O'odham Nation, San Xavier District, and the BLM has consulted with the BIA about the effects of the Undertaking on historic properties and has invited them to be an Invited Signatory to this PA; and

14. **Whereas,** the U.S. Army Corps of Engineers 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 PA; and

15. **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 PA; and

16. **Whereas,** the BLM has consulted with the New Mexico Department of Transportation (NMDOT) and the Arizona Department of Transportation (ADOT), which may issue ROWs to the Applicant for access to and construction of certain components of the Undertaking, has

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invited them to be Invited Signatories to this PA, and both NMDOT and ADOT have declined to sign; and

17. **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), Executive Order 13175, and section 3(c) of the Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. §§ 3001-13), and has formally invited the 21 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

18. **Whereas,** 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 Tesuque, the Pueblo of Zuni, the Comanche Indian Tribe, the Fort Sill Apache Tribe of Oklahoma, the Kiowa Tribe of Oklahoma, and the Ysleta del Sur Pueblo have been contacted, invited to engage in consultations, and invited to be Concurring Parties to this PA; and

19. **Whereas,** 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, the Pueblo of Zuni, the Hopi Tribe, and the Ysleta del Sur Pueblo have participated in consultations for this Undertaking and the development of this PA; and

20. **Whereas**, the Juan Bautista de Anza National Historic Trail is administered by the National Park Service (NPS), Pacific West Regional Office, and the BLM has determined that the Undertaking will likely affect this trail and the BLM has consulted with the NPS and has invited them to be an Invited Signatory to this PA; and

21. **Whereas,** the Undertaking crosses lands under the jurisdiction of the City of Tucson and Pima County and the BLM has consulted with them about the effects of the Undertaking on historic properties and has invited them to be Invited Signatories to this PA; and

22. **Whereas,** the Department of the Interior, through the NPS, is responsible for National Historic Landmarks (NHLs) under Section 101 of the NHPA and consults with agencies on undertakings adversely affecting those NHLs; and

23. **Whereas,** the Undertaking crosses lands under the jurisdiction of Pima County and the Arizona Board of Regents (University of Arizona) concerning the Desert Botanical Laboratory NHL and the Tumamoc Hill Archaeological National Register District and the BLM has consulted with these entities about the effects of the Undertaking on these historic properties and has invited them to be Invited Signatories to this PA; and

24. **Whereas,** the Undertaking crosses the Desert Botanical Laboratory NHL and the Tumamoc Hill Archaeological National Register District, which are nearly identical in location, and may affect this NHL and National Register District. BLM will follow 36 CFR § 800.10

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(special requirements for protecting NHLs) and/or provisions contained in this PA and the BLM has consulted with the NPS, which administers the NHL Program, and has invited them to be an Invited Signatory to this PA; and

25. **Whereas,** the ASLD and ADOT intend to use provisions of this PA to address the applicable requirements of the Arizona State Historic Preservation Act (ARS § 41-861 et seq.) and the Arizona Antiquities Act (AAA) (ARS § 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 PA to address the applicable requirements of the Cultural Properties Act (§ 18-6-1 et seq. NMSA 1978) and the Cultural Properties Protection Act (§ 18-6A-1 et seq. NMSA 1978); and

26. **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 ARS § 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 ARS § 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 PA; and

27. **Whereas,** Southline Transmission, LLC (Applicant), has participated in consultations and BLM has invited them to be an Invited Signatory to this PA; and

28. **Whereas,** the following have participated in consultations as Consulting Parties in accordance with 36 CFR §§ 800.2(c)(5) and 800.3(f)(1) and (3): the National Trust for Historic Preservation, Archaeology Southwest, and the Town of Marana and the BLM has invited them to be Concurring Parties to this PA; and

29. **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 4/4/2012 for the development of the EIS; held six public scoping meetings in May 2012; published the Draft EIS on ____and held ___ public meetings in ___. Public meeting materials included information about the NHPA and the Section 106 process and the BLM considered comments received through the NEPA and NHPA processes concerning cultural resources in the development of this PA; and

Now, therefore, the parties to this document agree that the Southline Transmission Line Project shall be completed in accordance with the stipulations established in this PA 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, which would take place after the BLM ROW grant is issued and includes 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 on historic properties will be the most extensive and substantial during the construction phase. The Undertaking also encompasses those activities

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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 approved BLM ROW grant, require BLM approval and may necessitate a separate Section 106 review. This PA stipulates 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.

If decommissioning takes place in the future, it will be considered a separate undertaking when it occurs.

See **Attachment 1** (in development) for a more detailed description of the Undertaking and **Attachment 2** (in development) for a map of the Undertaking.

DEFINITIONS USED IN THIS AGREEMENT

See **Attachment 3.**

STIPULATIONS

The BLM shall ensure that the Undertaking 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, Evaluation, and Determination of Effects

A. The Area of Potential Effects (APE) (see Attachment 2 (in development) and Attachment 3) is defined as:

1. **Direct effects:** The APE for direct effects during construction and reclamation for the new build portion of the Undertaking (from the Afton Substation to the Apache Substation; see Attachment 2, in development) will include all areas likely to be affected by construction and reclamation activities. This APE will be the 200-foot-wide permitted ROW corridor for one 345-kilovolt (kV) transmission line and access roads (within corridor) plus 100 feet on either side of the corridor (400 feet total width). This width will allow for adjustments in transmission line or access road placement to avoid when possible any natural, cultural, or modern features such as outcrops, historic properties, petroglyph sites, and structures. For the upgrade portion of the Undertaking (from Apache Substation to Saguaro Substation; see Attachment 2, in development) from an existing 115-kV to a 230-kV transmission line, the APE will be the 150-foot-wide permanent ROW plus 100 feet on either side of the corridor (350 feet total width).

   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 250 feet around the footprint of the proposed activity/facility.

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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 5 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. BLM will use a geographic information system (GIS) viewshed analysis to identify areas in the indirect effects APE from which the Undertaking may be visible.

b. The indirect effects APE may extend beyond the 5-mile convention to encompass properties that have traditional religious and cultural importance, including traditional cultural properties, 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 combined.

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 0.25 mile of the APEs described in Stipulation I.A.1, and the entire APE described in Stipulation I.A.2, which shall include a review of historical maps, including 15-minute topographic maps, General Land Office maps and survey notes, and other archival sources for properties that are more than 45 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. 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 Stipulation I.A.1, all historic linear cultural resources 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 Stipulation I.A.2, all historic linear cultural resources such as canals, roads, trails, and railroads will be identified and evaluated where the Undertaking would be visible to such linear cultural resources.

b. All previously recorded cultural resources within the direct effects APE will be revisited with the associated records updated and revised if appropriate, including National Register of Historic Places (NRHP) eligibility recommendations and determinations. Previously recorded cultural resources and newly recorded

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cultural resources whose boundaries lie partially within the APE will be fully recorded, to the extent practical, regardless of surface ownership.

c. Previously recorded and newly recorded cultural resources will be referenced by permanent site numbers with Universal Transverse Mercator (UTM) coordinates.

d. An assessment of visual impacts 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) Viewshed analysis indicates that the Undertaking would be visible from the historic property;

2) The historic property is eligible for the NRHP under criteria listed at 36 CFR 40 "(a), (b), or (c)". Under special circumstances, historic properties eligible only under criterion d may be included (e.g., an archaeological site with standing architecture). Inclusion of such properties will be at the discretion of the BLM in consultation with involved land managing agencies and the SHPO/Tribal Historic Preservation Officer (THPO).

3) Not less than 60 days prior to commencement of the visual analysis, the BLM will provide a proposed methodology for review and comment by Consulting Parties. All comments will be considered in refining the methodology prior to implementation.

C. The Applicant shall prepare a comprehensive Inventory Report incorporating findings from the existing Class I, Existing Data Inventory, and the Class III, Intensive Field Inventory, for each state. This comprehensive Inventory Report shall include NRHP eligibility recommendations and assessments of direct, indirect, and cumulative effects within the APE of the Undertaking as described in Stipulation I.A.

D. The Applicant shall submit drafts of the Inventory Report 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 60 calendar days regarding:

1. The adequacy of the identification effort;
2. The NRHP eligibility of the cultural resources identified;
3. The assessment of effects of the Undertaking on the historic properties identified; and
4. Whether there are any properties of traditional cultural or religious importance to tribes that were not identified in the inventory and that may be affected by the Undertaking.

The BLM shall ensure that comments received within 60 calendar days are considered in development of the revised Inventory Reports. The BLM will submit the revised Inventory Reports to the appropriate SHPO/THPO, tribes, and Consulting Parties for a 60-calendar-day review and will request SHPO/THPO concurrence on determinations of NRHP eligibility and BLM's assessments of effects on each historic property identified. In New Mexico, one appendix to the Inventory Report shall include a data compendium

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with copies of the appropriate New Mexico Cultural Resource Information System (NMCRIS) and archaeological site and historic structures inventory forms.

E. The Inventory Report will accomplish and provide the following:

1. Completion of the Identification of Historic Properties (except properties found during possible future Variances and Discoveries).
2. Determinations of Eligibility (except undetermined cultural resources and properties found during possible future Variances and Discoveries).
3. Determinations of effects on historic properties by the Undertaking (except undetermined cultural resources and properties found during possible future Variances and Discoveries).
4. Recommendations for treatment measures to be applied to historic properties affected by the Undertaking (except undetermined cultural resources and properties found during possible future Variances and Discoveries).

F. 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 opportunities for review and comment on draft and final versions of the Inventory Report. The consultation process will remain open for any tribe that expresses a desire to participate.

G. 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. 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 a SHPO/THPO, land managing agency or any tribe disagrees with the BLM's determinations of eligibility, the BLM shall consult with the SHPO/THPO, the land managing agency, and/or tribe 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.

H. Any cultural resources for which eligibility cannot be determined during the inventory phase of the Undertaking shall be identified in the HPTP and treated as eligible until a determination is made. 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, in consultation with the land manager and the SHPO/THPO, to make an eligibility determination. The BLM's eligibility determinations for such resources will be submitted to the respective SHPO/THPO and land manager with a Summary Report describing the results of the additional studies and a request for concurrence on the determination of eligibility. The SHPO/THPO will review these eligibility determinations and respond to the BLM within 30 calendar days. If the SHPO/THPO does not respond to the BLM

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within 30 calendar days, the BLM will assume concurrence with the determination(s) of NRHP eligibility.

II. Avoiding and Minimizing the Adverse Effects of the Undertaking on Historic Properties

A. The BLM shall, if possible, avoid adverse effects on historic properties, with input from Consulting Parties.

1. Avoidance measures for historic properties 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. The BLM shall develop avoidance measures for any properties of traditional religious and cultural importance in consultation with the SHPO/THPO and affected tribes or Native American groups who ascribe traditional religious and cultural importance to the properties.

3. The BLM shall identify measures to avoid adverse effects from operation and maintenance activities on those historic properties remaining within the ROW, and shall incorporate these measures in the HPTP in accordance with Stipulation III.A.

B. Where avoidance is not possible, the BLM shall minimize or mitigate adverse effects on historic properties to the degree possible with input from Consulting Parties.

C. If any Indian tribe 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/THPO about possible measures to resolve the adverse effects and ensure that those measures are properly considered in the development of the HPTP.

D. For state and private land in New Mexico, if the adverse effect is on a property listed in the State Register of Cultural Properties or NRHP, and the property is on land owned, controlled, or operated by a state agency or political subdivision of the state, the agency, or political subdivision shall determine whether NMSA 1978 § 18-8-7 of the Prehistoric and Historic Preservation Act, NMSA 1978, applies. The agency or political subdivision should contact the New Mexico SHPO for assistance in making this determination and satisfying the requirements of 4.10.12 New Mexico Administrative Code (NMAC).

III. Resolution of Adverse Effects: Development of the Historic Properties Treatment Plan

A. The BLM shall ensure that the Applicant prepares an HPTP for each state that will address the effects of the proposed Undertaking on historic properties, including properties of traditional religious and cultural importance, and traditional cultural properties as discussed in National Register Bulletin No. 38. The HPTP shall address potential direct, indirect, and cumulative 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 on historic properties and describe the strategies proposed to avoid, minimize, or mitigate those effects.

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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 eligible as a result of the testing/study phase. Stipulations I.G and I.H 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 II.
    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 that 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 No. 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, but are not limited to, 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 stand-alone Monitoring and Discovery Plan that will be an appendix to the HPTP. It will contain:
        1) A Monitoring Plan to be used during construction and reclamation.

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2) A Discovery Plan consistent with Stipulation VI to be used during the entire Undertaking.

3) If appropriate, a Monitoring Plan to be used during operations and maintenance monitoring in accordance with Stipulation III.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 X.A.3.

4) All monitoring shall follow 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 or other treatment measures that are 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 NAGPRA (of 1990 (25 § U.S.C. 3002)) Plan of Action (POA) that 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 and non-tribal land, methods and procedures will be consistent with ARS § 41-844 and ARS § 41-865 and their implementing rules.

2) In Arizona, the Applicant, working through the ASM, shall obtain “burial agreements” with Indian tribes pursuant to ARS § 41-844 and ARS § 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.

3) In New Mexico on non-Federal and non-tribal land, the methods and procedures will be consistent with the Cultural Properties Act, NMSA 1978, § 18-6-11.2, and 4.10.11 NMAC.

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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, and operation and 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, but is not limited to, 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, and lesson plans and educational materials for use in schools, podcasts, 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 require additional Section 106 review.

p. A list of operation and maintenance activities that will require additional Section 106 review.

B. Process for Developing the Historic Properties Treatment Plan

1. The Applicant shall submit the draft HPTP to the BLM for initial review and comments. The BLM shall provide the SHPO/THPO 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 45 calendar days to review and comment on the plan. If no comments are submitted to the BLM within the 45-calendar-day review period, concurrence with the draft HPTP will be assumed.

a. During this review period, 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 45-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

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period. The BLM, in consultation with the SHPO/THPO, 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, other treatment measures, and all reporting requirements. The Applicant shall provide the BLM with 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/THPO and 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 for each state. The final Treatment Reports also will 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 operation 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 on those properties.

F. The BLM shall review the draft Treatment Reports and provide a copy to the appropriate SHPO/THPO and other Consulting Parties for a 60-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 60 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/THPO 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

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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, the Applicant will submit proposed deviations from the HPTP to the BLM for review prior to implementation. The BLM shall provide copies of the proposed deviation to the appropriate SHPO/THPO, the tribes, 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.

IV. 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/THPO and land managing agencies. If any newly identified construction needs would result in ground-disturbing activities outside of the surveyed areas identified in the Inventory Report, the Applicant will request a variance review from the BLM.

1. The APEs of all variance areas will be consistent with those defined in Stipulation I.A.

2. A Class I, Existing Data Inventory, review and a Class III, Intensive Field Inventory, will be performed on all variance areas.

3. If the proposed variance will affect more than 10 acres of land or more than 1 mile of road, the BLM will provide the Consulting Parties with a description and map of the variance.

B. The following process for review and approval of construction variances will be used.

1. If no cultural resources or properties of traditional cultural or religious importance to tribes 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 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 2 working days following receipt, and will provide the Applicant's Cultural Resources Contractor (CRC) with written approval/disapproval of the variance via electronic mail.

2. If cultural resources or properties of traditional cultural or religious importance to tribes are present within the variance APE, an Inventory Report, as defined in Stipulation I.C, above, will be prepared and submitted to the BLM and the appropriate SHPO/THPO, tribes, and land manager for review. Because variance requests may be necessary in the midst of construction activities, the agencies and tribes will provide an expedited review within 5 working days or less. If no objections to the variance are received, at the end of the 5-day period, the BLM shall provide the Applicant's CRC 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 PA.

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a. 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 III of this PA.

b. Review procedures shall follow Stipulation III.D.

c. The supplemental Treatment Plan shall be incorporated into the HPTP, and a preliminary Summary Report will be prepared and distributed in accordance with Stipulation III.D.

d. The BLM shall ensure that the results of such treatment efforts are reported in the final Treatment Report for the Undertaking.

e. Once the BLM determines that the approved treatment has been completed, the BLM shall provide the Applicant's CRC with written approval of the variance via electronic mail.

V. Authorization of Construction

Requests for authorizations of construction will be approved only if such authorizations will not restrict subsequent measures to avoid, minimize, or mitigate the adverse effects on historic properties through rerouting of the corridor or placement of ancillary facilities.

A. **No Historic Properties Present**: Upon the BLM's acceptance of the final Inventory Report for each state, as described in Stipulation I, 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 on 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.

C. **Adverse Effect**: Following acceptance of the Summary Report of treatment that has occurred at each site described in Stipulation III.D, 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.

VI. Discoveries during the Undertaking

A. If potential historic properties are discovered, or unanticipated effects occur on 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 III.A.4.i) and will incorporate the following:

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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/THPO, 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 in accordance with ARS § 41-841 et seq. and 41-865.
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 III of this PA 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 III.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 Federal, state, and local laws, BA (in Arizona and Tohono O'odham Nation), 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, which shall notify the ASM Repatriation Coordinator pursuant to ARS § 41-844 (state lands), and pursuant to ARS § 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, and 4.10.11 NMAC.
3. On lands of the Tohono O'odham Nation, the Applicant shall report the discovery of human remains to the BLM and the Tohono O'odham Nation THPO.
4. Once the BLM has verified that the requirements of NAGPRA or of state laws governing non-Federal and non-tribal lands have been met, the BLM may authorize the Applicant to proceed with construction.

VII. Standards for Conducting and Reporting Work

A. The BLM shall ensure that all work and reporting performed under this PA meets, at a minimum, the *Secretary of the Interior's Standards and Guidelines for Archaeological*

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and Historic Preservation (48 CFR 44716-44742, September 23, 1983) (the Secretary's Standards) and takes into consideration the ACHP's handbook, Section 106 Archaeology Guidance (http://www.achp.gov/archguide); *Procedures For Performing Cultural Resource Fieldwork On Public Lands in the Area of New Mexico State BLM Responsibilities* (BLM Manual Supplement H-8100-1); *Guidelines for Identifying Cultural Resources* (BLM Manual H-8110); and *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (National Register Bulletin No. 38, 1989).

1. In Arizona, on state land, including municipalities, counties, and other political subdivisions, all activities and documentation shall be consistent with ARS § 41-841, et seq., and the Arizona State Historic Preservation Act ARS § 41-861, et seq., along with rules for implementing the AAA and Arizona 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

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 Title 4, Chapter 10, of the NMAC. All activities and documentation on state land shall be consistent with the appropriate state standards found in 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 CRC obtains an AAA project-specific permit from the ASM prior to excavating sites on state lands pursuant to ARS § 41-841 et seq.

C. In New Mexico, the Applicant shall ensure that its CRC 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 § 18-6-5 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

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CRC 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 of the Cultural Properties Act, NMSA 1978.

D. On lands of the Tohono O'odham Nation, the Applicant shall ensure that its CRC obtains a project-specific excavation permit from the Tohono O'odham Nation. This is a permit under the Tohono O'odham Nation Archeological Resources Protection Ordinance. Once secured, the CRC shall approach the BIA for an Archaeological Resources Protection Act (ARPA) permit.

VIII. Confidentiality of Records

A. The 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 Section 304 of the NHPA and the ARPA, 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.

B. All Parties to this PA agree that, to the extent consistent with Section 304 of the NHPA, and the Archaeological Resources Protection Act of 1979 (16 U.S.C. § 470aa-mm), 27 Section 9(a), cultural resource data from this project will be treated as confidential by all Consulting Parties and is not to be released to any person, organization, or agency not a Consulting Party to this PA. Duplication or distribution of cultural resource data from this Undertaking by any Consulting Party requires written authorization from the BLM New Mexico State Director.

IX. Curation

A. On all lands other than those of the Tohono O'odham Nation, 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 ownership of artifacts and treatment and disposition of Native American human remains and funerary objects.

1. 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.

2. All artifacts recovered from lands owned, controlled, or operated by the State of Arizona, including associated records and documentation, shall be curated at the ASM and in accordance with the standards and guidelines required by ASM.

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3. All artifacts recovered from lands of the Tohono O'odham Nation, including associated records and documentation, shall be curated at the Tohono O'odham Nation Cultural Center.

X. Undertaking Monitoring, Annual Reporting, and Evaluation

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

1. The BLM will select a 10 percent sample of cultural resources found during the inventory and conduct field inspections while accompanied by the CRC to provide input regarding NRHP eligibility and possible future treatment options.

2. 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.

3. 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 PA 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 PA.

4. The BLM shall monitor activities pursuant to this PA. Terms and conditions of monitoring activities are described in the Monitoring and Discovery Plan (Stipulation III.A.4.i). Should the Applicant or its CRC fail to comply with any provision of this PA, the BLM may, at its discretion, counsel the Applicant and/or its CRC regarding performance requirements or suspend the permit under which this PA is executed. Such suspension would result in the issuance of a "stop work" order for the entire Project.

5. The BLM will remain responsible to inspect for compliance with the terms and conditions of the BLM ROW grant pertaining to historic properties for the life of the grant, and will ensure that the appropriate BLM cultural resources specialist participates in these compliance reviews.

XI. 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 and maintenance of the lines that are included in the POD and the ROW grants. These terms, conditions, and stipulations will include any provisions identified in the HPTP that resolve potential adverse effects on historic properties identified within the ROW.

1. The BLM will be responsible for ensuring that the stipulations in the BLM ROW grant are enforced.

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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.

4. The BIA and Tohono O'odham Nation will be responsible for ensuring that the stipulations in their ROW grant are enforced on the Tohono O'odham Nation.

B. Post-construction evaluation and management of historic properties are described in Stipulation III.E.1–III.E.3.

C. Should any variance be necessary during operation and maintenance, the Applicant will follow the variance procedure in the HPTP, 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).

XII. Decommissioning

Should decommissioning of the transmission line and associated facilities be deemed necessary at any point, 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.

XIII. Dispute Resolution

A. 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, that party shall notify BLM in writing expressing its concern with proposed modifications. The BLM shall consult with such party to resolve the objection. If the BLM determines that such objection cannot be resolved, BLM will:

1. Forward all documentation relevant to the dispute, including the BLM's proposed resolution, to the ACHP, asking that office to provide BLM with its advice on the resolution of the objection within 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 and Consulting Parties, and provide them with a copy of this written response. The BLM will then proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the 30-day 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, and provide them and the ACHP with a copy of such written response.

3. 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.

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XIV. Amendments and Termination

A. Any Signatory or Invited Signatory to this PA 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. The amended PA shall take effect upon final signature by the ACHP.

B. Pursuant to 36 CFR § 800.6(c) (8), if any Signatory or Invited Signatory to this PA determines that the terms of the PA cannot be or are not being carried out, then such party must provide written notice to the BLM and the other Signatories and Invited Signatories stating the reasons for the determination and requesting consultation to resolve the stated concerns through amendment of the PA or other means. The Signatories and Invited Signatories shall consult regarding potential amendments to the PA to resolve the stated concerns within 30 calendar days of the written request. If the Signatories and Invited Signatories are unable to amend the PA or agree on other actions to resolve the concerns, and it has been determined that the terms of the PA cannot be or are not being carried out, provided that they consult during the 30-calendar-day period, the objecting party may terminate the PA by providing written notice to the Signatories and Invited Signatories.

C. In the event that this PA is terminated, the BLM shall comply with 36 CFR § 800.6 (c) (8) and will take reasonable steps to avoid adverse effects on historic properties until another PA has been executed or will request, take into account, and respond to Council comments, in accordance with 36 CFR § 800.7. The BLM will notify all parties to this PA as to the course of action it will pursue.

XV. Term of the Programmatic Agreement

This PA will expire if the Undertaking has not been initiated within 5 years of the signing of this PA, or the BLM ROW grant expires or is withdrawn. Otherwise, this PA 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.

XVI. Non-endorsement Clause

Nothing in this PA should be interpreted to imply that any party endorses the Southline Transmission Line Project. The parties will not take any action or make any statement that suggests or implies such an endorsement based on signing this PA.

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

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ATTACHMENT 1: PROJECT DESCRIPTION

In Development

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ATTACHMENT 2: LOCATION OF UNDERTAKING

In Development

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ATTACHMENT 3: DEFINITIONS FOR TERMS USED IN THIS PROGRAMMATIC AGREEMENT

Adverse Effect – Alteration of the characteristics of a historic property qualifying it for inclusion in or eligibility for the NRHP.

Area of Potential Effects (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 Las Cruces District Manager 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 matter 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 and has indicated intent to participate in consultations during its implementation either by signing in concurrence or by written notification to the agency official. The refusal of any party invited to sign the PA, other than the Signatories, does not invalidate the PA. Consulting Parties include:

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

Invited Signatory – The authorized official may invite additional parties to sign the PA and upon signing, they have the same rights with regard to amendments and termination as the signatories. These parties have legal responsibility in terms of the Undertaking, 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 PA but is not legally or financially responsible for completion of stipulations set forth in the PA.

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 2 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. The term includes archaeological, historic, or architectural sites, landscapes, buildings, structures, objects, and places that possess

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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. Cultural resources 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 survey: 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 feet (15 meters).

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 – 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.

Cumulative effects are the impacts on cultural resources that result from the incremental impact of the Undertaking when added to other past, present, and reasonably foreseeable future actions, regardless which agency (Federal or non-Federal) or person undertakes such other actions (under 40.CFR § 1508.7). 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.). 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.

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Eligible (for Inclusion in the NRHP) – 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 the SHPO/THPO and other parties.

Historic Property – Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the NRHP 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 Properties Treatment Plan (HPTP) – A document that details the procedures and techniques for resolving adverse effects on 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.

Integrity – Refers to location, design, setting, materials, workmanship, feeling, and association as defined in 36 CFR 60.

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 NRHP 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 (1) provides a detailed plan to monitor compliance with stipulations of the HPTP to avoid, minimize, or mitigate adverse effects of the Undertaking, (2) may include specific plans where monitoring is necessary to help resolve adverse effects on historic properties, (3) establishes procedures to follow in the event that previously undiscovered cultural resources are encountered during the Undertaking, and (4) includes a POA developed specifically to address the handling of human remains pursuant to the 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.

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National Register of Historic Places (National Register, or NRHP) – The NRHP 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 Part 60).

Operation 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, in accordance with Stipulation XI. 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 ROW authorization. Contributors in the development of the final POD prior to construction will include the ASLD and NMSLO. 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 ROWs, 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 (PA) – 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 (ROW) – The public lands BLM authorizes to use or occupy under a grant. 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 requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the ACHP a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by the ACHP. Revised regulations, "Protection of Historic Properties" (36 CFR Part 800), became effective on 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 SHPO.

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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.

Termination and Reclamation Plan – A document that addresses the removal of Project facilities from permitted areas and addresses reclamation procedures identified by land management agencies in conjunction with project owners, prior to decommissioning.

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), addresses the research questions developed in the Treatment Plan, and synthesizes the results into a regional overview of the Project area.

Tribal Historic Preservation Officer (THPO) – The tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of Section 106 compliance on tribal lands in accordance with Section 101(d) (2) of the NHPA.

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.

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