



Draft Tier 1 Environmental Impact Statement and Preliminary Section 4(f) Evaluation

Appendix E7, Section 106 Consultation Summary and Draft Programmatic Agreement

March 2019



Federal Aid No. 999-M(161)S
ADOT Project No. 999 SW 0 M5180 01P

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Section 106 Consultation Summary



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	Date	Consultation Activity	Responses	
1	21 Mar 2016	Pre-NEPA scoping/pre-Notice of Intent (NOI) to prepare an environmental impact statement (EIS) letter from FHWA to 16 Tribes offering an early consultation meeting to provide an overview of the I-11 project, discuss potential concerns, establish consultation protocols, and opportunities for ongoing consultation.	Ak-Chin Indian Community	
			Chemehuevi Indian Tribe	No comments, but if cultural resources are found during construction, cease activity and contact immediately (e-mail, 22 March 2016).
			Colorado River Indian Tribes	
			Fort McDowell Yavapai Nation	
			Fort Mojave Indian Tribe	
			Fort Yuma Quechan Tribe	
			Gila River Indian Community	
			Hopi Tribe	Interested in Section 106 consultations and EIS cultural resource studies (letter, 4 April 2016; identical letter received 11 July 2016).
			Pascua Yaqui Tribe	
			Salt River Pima-Maricopa Indian Community	
			San Carlos Apache Tribe	Deferred to other Tribes being consulted (letter, 1 April 2016).
			Tohono O'odham Nation	
			Tonto Apache Tribe	
			White Mountain Apache Tribe	Indicated I-11 project will not affect the Tribe's historic or traditional cultural properties (letter, 1 April 2016).
			Yavapai-Apache Nation	
			Yavapai-Prescott Tribe	
2	11 Apr 2016	FHWA letter to four Tribes clarifying the 21 March 2016 letter was not an early Section 106 consultation and formal Section 106 consultation would be initiated after NOI is filed for the project.	Ak-Chin Indian Community	
			Gila River Indian Community	Tribal Historic Preservation Office accepted invitation to meet with FHWA and ADOT (letter, 10 August 2016).
			Hopi Tribe	
			Pascua Yaqui Tribe	



	Date	Consultation Activity	Responses	
3	12 Apr 2016	Pre-NEPA scoping/pre-NOI letter to Yavapai-Apache Nation Economic Development Authority offering an early meeting to provide overview of I-11 project, discuss concerns, establish consultation protocols, and indicate formal invitation to participate in Section 106 consultations would be sent soon.		
4	22 Apr 2016	Meeting with Four Southern Tribes Cultural Resource Working Group to provide overview of I-11 project. (The Four Southern Tribes include the Ak-Chin Indian Community, Gila River Indian Community, Salt River Pima-Maricopa Indian Community, and Tohono O'odham Nation.)	The Ak-Chin Indian Community, Salt River Pima-Maricopa Indian Community, and Tohono O'odham Nation confirmed verbally at this meeting that they want to be Section 106 consulting parties.	
5	25 Apr 2016	Meeting with Gila River Indian Community Tribal Historic Preservation Office and Cultural Resource Management Program to provide overview of I-11 project.		
6	27 Apr 2016	Pre-scoping meeting with SHPO to present preliminary project information, answer questions, and discuss communication protocols.		
7	6 June 2016	Letter from Archaeology Southwest urging ADOT and FHWA to initiate Section 106 process immediately because the project has potential to adversely affect historic properties. Suggested alternatives be designed to avoid significant cultural resources and consider direct, indirect, and cumulative effects; recommended landscape level planning; and consideration of cultural resource priority area information developed by Archaeology Southwest.		
8	16 Jun 2016	Meeting with SHPO to discuss identification of consulting parties and draft consultation process.		
9	5 Jul 2016	FHWA initial Section 106 consultation letter inviting agencies, tribes, and organizations to participate as consulting parties; 80 letters sent out.	Federal Agencies	
			Advisory Council on Historic Preservation	Invite when impacts to historic properties are more defined and programmatic agreement is initiated (e-mail, 31 Oct 2016)
			Bureau of Indian Affairs, Western Region • ADOT followed up by phone and e-mail on 25 October 2016.	No response; accepted as part of the December 2017 PA invitation consultation



	Date	Consultation Activity	Responses	
9	5 Jul 2016	FHWA initial Section 106 consultation letter inviting agencies, tribes, and organizations to participate as consulting parties; 80 letters sent.	Bureau of Land Management State Office	
			Bureau of Land Management Hassayampa Field Office	Phoenix District (includes Lower Sonoran and Hassayampa field offices) accepted invitation to be a consulting party (31 Aug 2016)
			Bureau of Land Management Lower Sonoran Field Office	Phoenix District (includes Lower Sonoran and Hassayampa field offices) accepted invitation to be a consulting party (form, 31 Aug 2016)
			Bureau of Land Management Tucson Field Office	Accepted invitation to be a consulting party (form, 4 Aug 2016)
			Bureau of Reclamation	Accepted invitation to be a consulting party (form, 11 Jul 2016)
			Department of Homeland Security, Customs and Border Protection • ADOT followed up by phone on 14 October 2016.	No response
			Federal Aviation Administration • ADOT followed up by phone on 25 October 2016.	No response
			Federal Railroad Administration	Declined to be a consulting party (form, 2 Aug 2016)
			National Park Service (Saguaro National Park) • ADOT followed up by phone and e-mail on 25 October 2016.	No response
			San Carlos Irrigation District, Bureau of Indian Affairs	San Carlos Irrigation Project responded to and accepted invitation to be a consulting party (forms, 18 Nov and 16 Dec 2016; letter, 21 Dec 2016)
			US Air Force (Davis-Monthan) • ADOT followed up by phone on 14 October 2016 and by e-mail on 25 October 2016.	No response



	Date	Consultation Activity	Responses	
9	5 Jul 2016	FHWA initial Section 106 consultation letter inviting agencies, tribes, and organizations to participate as consulting parties; 80 letters sent.	US Air Force (Luke) • ADOT followed up by phone on 14 October 2016 and by e-mail on 25 October 2016.	No response
			US Army Corps of Engineers	No response
			U.S. Fish and Wildlife Service	Declined to be consulting party (form, 1 Aug 2016)
			US Forest Service (Coronado National Forest) • ADOT followed up by phone on 11 October 2016.	No response
			Western Area Power Administration	Accepted invitation to be a consulting party (form, 7 Jul 2016)
			Federally Recognized Tribes	
			Ak-Chin Indian Community	Accepted invitation to be a consulting party (verbally at Four Southern Tribes meeting on 22 April 2016)
			Chemehuevi Indian Tribe • ADOT sent follow-up email on 27 October 2016.	No specific comments regarding project (e-mail, 1 November 2016)
			Cocopah Indian Tribe	No comment on the project and defer to more local tribes (e-mail, 18 Jul and 22 Nov 2016)
			Colorado River Indian Tribes	Defer to comments of other affiliated tribes (letter, 1 Aug 2016 and 22 Mar 2017)
			Fort McDowell Yavapai Nation • ADOT followed up by e-mail on 27 October 2016 and by phone on 22 November 2016.	No response
			Fort Mojave Indian Tribe	Want to continue to receive Section 106 consultation correspondence (e-mail, 28 Oct 2016)



	Date	Consultation Activity	Responses	
9	5 Jul 2016	FHWA initial Section 106 consultation letter inviting agencies, tribes, and organizations to participate as consulting parties; 80 letters sent.	Fort Yuma Quechan Tribe • ADOT followed up by e-mail on 27 October 2016 and by phone on 23 November 2016.	No response
			Gila River Indian Community	
			Havasupai Tribe • ADOT followed up by e-mail on 27 October 2016 and by phone and e-mail on 23 November 2016.	No response
			Hopi Tribe	
			Hualapai Tribe • ADOT sent follow-up email on 27 October 2016 to confirm receipt of 5 July 2016 letter.	Accepted invitation to be a consulting party (e-mail, 30 Nov 2016)
			Kaibab Band of Paiute Indians	Deferred to Hualapai Tribe and Chemehuevi Tribe; do not want to participate in consultation but want copy of final Tier 1 EIS (record of conversation, 23 Nov 2016)
			Moapa Band of Paiute Indians • ADOT followed up by e-mail on 27 October 2016 and by phone on 23 November 2016	No response
			Navajo Nation	
			Pascua Yaqui Tribe • ADOT followed up by e-mail on 27 October 2016 and by phone on 23 November 2016	No response
			Pueblo of Zuni	Received initial Section 106 consultation letter but had not reviewed it; may have comments after review (record of conversation 23 Nov 2016)
			Salt River Pima-Maricopa Indian Community	Accepted invitation to be a consulting party (verbally at Four Southern Tribes meeting on 22 April 2016)



	Date	Consultation Activity	Responses	
9	5 Jul 2016	FHWA initial Section 106 consultation letter inviting agencies, tribes, and organizations to participate as consulting parties; 80 letters sent.	San Carlos Apache Tribe	Deferred to Four Southern Tribes and Tribes located within the corridor (letter, 12 Jul 2016)
			San Juan Southern Paiute Tribe • ADOT followed up by e-mail on 27 October 2016 and by phone on 23 November 2016	No response
			Tohono O’odham Nation	Accepted invitation to be a consulting party (verbally at Four Southern Tribes meeting on 22 April 2016)
			Tonto Apache Tribe • ADOT followed up by e-mail on 27 October 2016 and by phone on 23 November 2016	No response
			White Mountain Apache Tribe	Accepted invitation to be a consulting party (letter, 8 Jul 2016)
			Yavapai-Apache Nation • ADOT sent follow-up email on 27 October 2016	Want to continue to receive Section 106 consultation (e-mail, 28 Oct 2016)
			Yavapai-Prescott Indian Tribe	Accepted invitation to be a consulting party (e-mail, 15 Jul 2016)
			State Agencies	
			Arizona Air National Guard • ADOT followed up by phone on 14 October 2016.	No response
			Arizona Department of Corrections	Declined to be a consulting party (form, 26 Jul 2016)
			Arizona State Land Department	Accepted invitation to be a consulting party (form, 7 Jul 2016)
			Arizona State Museum	Accepted invitation to be a consulting party (form, 18 Jul 2016)
			Arizona State Parks and Trails	Accepted invitation to be a consulting party (form, 22 Nov 2016)
			State Historic Preservation Office	Accepted invitation to be a consulting party (form, 8 Jul 2016)



	Date	Consultation Activity	Responses	
9	5 Jul 2016	FHWA initial Section 106 consultation letter inviting agencies, tribes, and organizations to participate as consulting parties; 80 letters sent.	County Agencies	
			Maricopa County Department of Transportation • ADOT followed up by phone on 14 October 2016.	No response
			Maricopa County Flood Control District • ADOT followed up by phone on 15 October 2016.	No response
			Pima County	Accepted invitation to be a consulting party (form, 8 Jul 2016)
			Pima County Regional Flood Control District	Declined to be a consulting party (form, 20 Jul 2016)
			Pinal County	Accepted invitation to be a consulting party (form, 7 Jul 2016)
			Pinal County Flood Control District • ADOT sent a follow-up email on 18 October 2016.	Accepted invitation to be a consulting party (e-mail, 18 Oct 2016)
			Santa Cruz County	Accepted invitation to be a consulting party, e-mail, 30 Nov 2016)
			Santa Cruz County Flood Control District • ADOT followed up by phone and e-mail on 17 October 2016.	No response
			Yavapai County • ADOT followed up by phone on 21 November 2016 and by e-mail on 22 November 2016.	No response; accepted as part of the December 2017 PA invitation consultation
			Yavapai County Flood Control District	Declined to be a consulting party (form, 13 Jul 2016)



	Date	Consultation Activity	Responses	
9	5 Jul 2016	FHWA initial Section 106 consultation letter inviting agencies, tribes, and organizations to participate as consulting parties; 80 letters sent.	Local Municipalities	
			City of Buckeye • AECOM (on behalf of ADOT) sent follow-up e-mail on 14 November 2016.	Accepted invitation to be a consulting party (email 14 Nov 2016)
			City of Casa Grande	Accepted invitation to be a consulting party (form 7 Jul 2016)
			City of Eloy	Accepted invitation to be a consulting party (form, 27 Jul 2016)
			City of Goodyear	Accepted invitation to be a consulting party (form, 18 Nov 2016)
			City of Maricopa	Accepted invitation to be a consulting party (form, 15 Nov 2016)
			City of Nogales	Accepted invitation to be a consulting party (e-mail 18 Aug 2016)
			City of South Tucson	Accepted invitation to be a consulting party e-mail, 23 Aug 2016)
			City of Surprise	Returned Section 106 consultation form but did not indicate if they wanted to be a consulting party (form, 12 Jul 2016)
			City of Tucson	Accepted invitation to be a consulting party (form, 19 Aug 2016)
			Town of Gila Bend • AECOM (on behalf of ADOT) sent follow-up emails on 16 and 23 August and 15 September 2016.	Accepted invitation to be a consulting party (e-mail, 19 September 2016)
			Town of Marana	Accepted invitation to be a consulting party (form, 20 Jul 2016)
			Town of Oro Valley	Declined to be a consulting party (form, 5 Aug 2016)
			Town of Sahuarita	Accepted invitation to be a consulting party (form, 22 Aug 2016)
			Town of Wickenburg	Accepted invitation to be a consulting party (form, 20 Jul 2016)



	Date	Consultation Activity	Responses	
9	5 Jul 2016	FHWA initial Section 106 consultation letter inviting agencies, tribes, and organizations to participate as consulting parties; 80 letters sent.	Other Organizations	
			Arizona Public Service <i>ADOT followed up by phone on 17 October 2016.</i>	No response
			BNSF Railway • <i>ADOT followed up by phone on 15 November 2016.</i>	No response
			Buckeye Water Conservation and Drainage District • <i>ADOT followed up by phone on 17 October 2016.</i>	No response
			Cortaro-Marana Irrigation District • <i>The Cortaro-Marana Irrigation District sent e-mail to ADOT on 18 October 2016 requesting a map of the study area, which ADOT provided by e-mail on 19 October 2016.</i>	Accepted invitation to be a consulting party (e-mail, 19 Oct 2016)
			• Roosevelt Water Conservation District	Declined to be a consulting party (letter, 7 Jul 2016)
			Salt River Project • <i>ADOT followed up by phone on 15 November 2016.</i>	No response
			Tucson Electric Power, a UNS Energy Corporation	Accepted invitation to be a consulting party (e-mail 23 Sep 2016)
		Union Pacific Railroad		
10	12 Jul 2016	FHWA initial Section 106 consultation letter to Roosevelt Irrigation District.	Accepted invitation to be a consulting party (form, 22 July 2017)	
11	2 Aug 2016	FHWA initial Section 106 consultation letter to additional interested parties.	Central Arizona Irrigation and Drainage District	Accepted invitation to be a consulting party (form, 16 Nov 2016)
			Green Reservoir Flood Control District	
			Maricopa Flood Control District	
12	3 Aug 2016	FHWA initial Section 106 consultation letter to Maricopa-Stanfield Irrigation and Drainage District.	Accepted invitation to be a consulting party (e-mail, 1 Dec 2016)	



	Date	Consultation Activity	Responses	
13	4 Aug 2016	FHWA initial Section 106 consultation letter to Silverbell Irrigation and Drainage District	Accepted invitation to be a consulting party (form, 17 Aug 2016)	
14	24 Aug 2016	FHWA initial Section 106 consultation letter to Central Arizona Project and Trico Electric Cooperative	Central Arizona Project	
			Trico Electric Cooperative	
15	12 Sept 2016	Project update meeting at Four Southern Tribes cultural resources meeting at Gila River Indian Community Tribal Historic Preservation Office.		
16	14 Sep 2016	Meeting with SHPO to provide overview of Section 106 process to date and distribute archaeological site density maps.		
17	8 Nov 2016	Meeting with Tohono O’odham Nation at San Xavier District offices to discuss Section 106 methodology and archaeological site density maps and request information about areas that should be avoided.		
18	9 Nov 2016	Meeting with Ak-Chin and Salt River Pima-Maricopa Indian Communities at ADOT offices in Phoenix to discuss Section 106 methodology and archaeological site density maps and requested information about areas that should be avoided.		
19	28 Nov 2016	Meeting at Gila River Indian Community Tribal Historic Preservation Office to follow-up on agency scoping meeting, provide overview of Section 106 process to date, and discuss archaeological site density maps.		
20	27 Dec 2016	Four Southern Tribes Cultural Resources Working Group meeting at Casa Grande public library to provide overview of I-11 project.		
21	13 Jan 2017	FHWA initial Section 106 consultation letter to Archaeology Southwest.	Archaeology Southwest	Follow-up Section 106 questions (voice mail, 21 February 2017)
			FHWA	Response to 21 February 2017 voice mail; FHWA suggested conference call with FHWA, ADOT, and Archaeology Southwest to discuss Archaeology Southwest’s questions and provided list of potential dates, (e-mail, 21 February 2017)



	Date	Consultation Activity	Responses	
21	13 Jan 2017	FHWA initial Section 106 consultation letter to Archaeology Southwest.	Archaeology Southwest	Asked if FHWA planned to schedule meetings with consulting parties (e-mail 21 February 2017)
			FHWA	Indicated meetings with Section 106 consulting parties are being scheduled upon request; 3 SHPO meetings and 4 meetings with Four Southern Tribes were held in 2016 and meetings with SHPO and Four Southern Tribes were scheduled for April 2017; NEPA scoping meetings were held with many agencies and Tribes; agency and public outreach meetings were held in June 2016 and a round of meetings are planned for May 2017 (e-mail, 21 February 2017).
			FHWA	Response to 21 February 2017 e-mail and 2 March 2017 voice mail indicated project has 90 consulting parties and declined request for a formal group consultation. FHWA provided summary of meetings held and planned meetings. Invited Archaeology Southwest to meet with FHWA, ADOT, and SHPO (e-mail, 9 March 2017).
			Archaeology Southwest	Archaeology Southwest remained concerned about the scoping process and suggested written summaries of FHWA's meetings with various partners be made available to consulting parties. Archaeology Southwest requested meeting with SHPO, FHWA, and ADOT to discuss how spatial information on priority area planning that Archaeology Southwest included with its scoping comments was being considered and provided to interested parties as part of the consultation process. Provided article on a planning process for large scale linear facility projects (e-mail, 9 March 2017).
			FHWA	FHWA suggested potential dates for meeting with Archaeology Southwest, FHWA, ADOT, and SHPO (e-mail, 13 March 2017).



	Date	Consultation Activity	Responses		
22	30 Mar 2017	Meeting with Archaeology Southwest, ADOT, and SHPO.			
23	20 Apr 2017	Meeting with Four Southern Tribes at Casa Grande Public Library to provide update of I-11 project and preview information to be presented at May public meetings.			
24	27 Apr 2017	Meeting with SHPO to provide update on I-11 project.			
25	27 Apr 2017	FHWA letter inviting consulting parties to attend public meetings scheduled May 2 through May 16, 2017; letter provided link to online materials and comments; 76 letters sent.	Federal Agencies		
			Federal Aviation Administration		
			Bureau of Indian Affairs, Western Region		
			Bureau of Land Management State Office		
			Bureau of Land Management Phoenix District		
			Bureau of Land Management Tucson Field Office		
			Bureau of Reclamation		
			National Park Service (Saguaro National Park)		
			San Carlos Irrigation Project, Bureau of Indian Affairs		
			US Air Force (Davis-Monthan AFB)		
			US Air Force (Luke AFB)		
			US Army Corps of Engineers		
			US Department of Homeland Security, Customs and Border Protection		
			US Forest Service (Coronado National Forest)		
			Western Area Power Administration		
			Federally Recognized Tribes		
			Ak-Chin Indian Community	Acknowledged receipt of invitation to April 2017 public meetings (letter, 8 May 2017)	
			Chemehuevi Indian Tribe		



	Date	Consultation Activity	Responses	
25	27 Apr 2017	FHWA letter inviting consulting parties to attend public meetings scheduled May 2 through May 16, 2017; letter provided link to online materials and comments; 76 letters sent.	Colorado River Indian Tribes	
			Fort McDowell Yavapai Nation	
			Fort Mojave Indian Tribe	
			Fort Yuma-Quechan Tribe	
			Gila River Indian Community	
			Havasupai Tribe	
			Hopi Tribe	
			Hualapai Tribe	
			Moapa Band of Piute Indians	
			Navajo Nation	
			Pascua Yaqui Tribe	
			Pueblo of Zuni	
			Salt River Pima-Maricopa Indian Community	
			San Juan Southern Piute Tribe	
			Tohono O’odham Nation	
			Tonto Apache Tribe	
			White Mountain Apache Tribe	Acknowledged receipt of invitation to April 2017 public meetings (letter 11 May 2017)
			Yavapai-Apache Nation	
			Yavapai-Prescott Indian Tribe	
			State Agencies	
			Arizona Air National Guard	
			Arizona State Land Department	
			Arizona State Museum	
			Arizona State Parks and Trails	
			State Historic Preservation Office	



	Date	Consultation Activity	Responses	
25	27 Apr 2017	FHWA letter inviting consulting parties to attend public meetings scheduled May 2 through May 16, 2017; letter provided link to online materials and comments; 76 letters sent.	County Agencies	
			Maricopa County Department of Transportation	
			Maricopa County Flood Control District	
			Pima County	
			Pinal County	
			Santa Cruz County	
			Santa Cruz County Flood Control District	
			Yavapai County	
			Local Municipalities	
			City of Buckeye	
			City of Casa Grande	
			City of Eloy	
			City of Goodyear	
			City of Maricopa	
			City of Nogales	
			City of South Tucson	
			City of Surprise	
			City of Tucson	
			Town of Gila Bend	
			Town of Marana	
			Town of Sahuarita	
			Town of Wickenburg	
			Other Organizations	
			Archaeology Southwest	
			Arizona Public Service	
			BNSF Railway	
			Buckeye Water Conservation and Drainage District	



	Date	Consultation Activity	Responses	
25	27 Apr 2017	FHWA letter inviting consulting parties to attend public meetings scheduled May 2 through May 16, 2017; letter provided link to online materials and comments; 76 letters sent.	Central Arizona Irrigation and Drainage District	
			Central Arizona Project	
			Cortaro-Marana Irrigation District	
			Green Reservoir Flood Control District	
			Maricopa Flood Control District	
			Maricopa-Stanfield Irrigation and Drainage District	
			Roosevelt Irrigation District	
			Salt River Project	
			Silverbell Irrigation and Drainage District	
			Trico Electric Cooperative	
			Tucson Electric Power, a UNS Energy Corp.	
			Union Pacific Railroad	
26	4 May 2017	Meeting with Archaeology Southwest		
27	27 Jun 2017	Meeting with Four Southern Tribes at Casa Grande Public Library to review project alternatives with Google Earth imagery and solicit comments.		
28	24 Oct 2017	Update meeting with Four Southern Tribes Cultural Resources Working Group.		
29	30 Nov 2017	BLM State Office e-mail to FHWA and ADOT accepting invitation to be a consulting party.		
30	12 Dec 2017	Four Southern Tribes Cultural Resources Working Group meeting to discuss approach for Programmatic Agreement.		



	Date	Consultation Activity	Responses	
31	21 Dec 2017	FHWA Section 106 PA invitation letter inviting consulting parties to provide input into drafting the PA and/or to participate in the PA; 80 letters sent	Federal Agencies	
			Federal Aviation Administration	
31	21 Dec 2017	FHWA Section 106 PA invitation letter inviting consulting parties to provide input into drafting the PA and/or to participate in the PA; 80 letters sent	Bureau of Indian Affairs, Western Region	Want to provide input in drafting the PA, participate in the PA, and receive a final copy (form, Feb 2018)
			Bureau of Land Management State Office	Want to provide input in drafting the PA, participate in PA, and receive a final copy (form, Jan 2018)
			Bureau of Land Management Phoenix Field Office	
			Bureau of Land Management Tucson Field Office	Want to provide input in drafting the PA, participate in PA, and receive a final copy (e-mail, 27 Dec 2017)
			Bureau of Reclamation	Want to provide input in drafting the PA, participate in PA, and receive a final copy (e-mail, 4 Jan 2018)
			National Park Service (Saguaro National Park)	
			San Carlos Irrigation Project, Bureau of Indian Affairs	Want to provide input in drafting the PA, participate in PA, and receive a final copy (form, Jan 2018)
			US Air Force (Davis-Monthan)	
			US Air Force (Luke)	
			US Army Corps of Engineers	Want to provide input in drafting the PA, participate in PA, and receive a final copy (form, Jan 2018)
			US Department of Homeland Security, Customs and Border Protection	
			US Forest Service (Coronado National Forest)	
			Western Area Power Administration	
			Federally Recognized Tribes	
			Ak-Chin Indian Community	
			Chemehuevi Indian Tribe	



	Date	Consultation Activity	Responses	
31	21 Dec 2017	FHWA Section 106 PA invitation letter inviting consulting parties to provide input into drafting the PA and/or to participate in the PA; 80 letters sent	Colorado River Indian Tribes	Want to provide input in drafting the PA and receive a final copy (letter and form, 23 Feb 2018)
			Fort McDowell Yavapai Nation	
			Fort Mojave Indian Tribe	
			Fort Yuma Quechan Tribe	
			Gila River Indian Community	
			Havasupai Tribe	
			Hopi Tribe	Want to provide input in drafting the PA and receive a final copy but not participate in the PA (form, Jan 2018)
			Hualapai Tribe	No comments but reserves comments for the I-11 corridor between Wickenburg and Kingman (email, 22 Dec 2017)
			Moapa Band of Piute Indians	
			Navajo Nation	Do not want to provide input, participate in PA, or receive a final copy (form, Jan 2018)
			Pascua Yaqui Tribe	
			Pueblo of Zuni	Want to provide input in drafting the PA (letter, 4 Jan 2018)
			Salt River Pima-Maricopa Indian Community	
			San Juan Southern Piute Tribe	
			Tohono O'odham Nation	Want to provide input in drafting the PA, participate in PA, and receive a final copy (e-mail, 18 Jan 2018)
			Tonto Apache Tribe	
			White Mountain Apache Tribe	Do not want to provide input, participate in PA, or receive a final copy of the PA (form, Jan 2018)
			Yavapai-Apache Nation	Want to provide input in drafting the PA, participate in PA, and receive a final copy (form, Jan 2018)



	Date	Consultation Activity	Responses	
31	21 Dec 2017	FHWA Section 106 PA invitation letter inviting consulting parties to provide input into drafting the PA and/or to participate in the PA; 80 letters sent	Yavapai-Prescott Indian Tribe	Want to provide input in drafting the PA and receive a final copy (form, Jan 2018)
			State Agencies	
			Arizona Air National Guard	
			Arizona State Land Department	
			Arizona State Museum (Dr. Patrick D. Lyons, Director)	
			Arizona State Museum (Dr. Todd Pitezal, Arizona Antiquities Act Administrator/State Repatriation Coordinator)	Want to provide input in drafting the PA, participate in PA, and receive a final copy (form Feb 2018)
			State Historic Preservation Office	Want to provide input in drafting the PA, participate in PA, and receive a final copy (form, Jan 2018)
			County Agencies	
			Maricopa County Department of Transportation	
			Flood Control District of Maricopa County	
			Pima County (Roger Anyon, Office of Sustainability and Conservation)	
			Pima County (Ian Milliken, Office of Sustainability and Conservation)	Want to provide input in drafting the PA, participate in PA, and receive a final copy (form, Jan 2018)
			Pinal County (Scott Bender, County Engineer)	
			Pinal County (Andrew Smith, County Transportation Manager)	Want to provide input in drafting the PA (e-mail, 18 Jan 2018)
			Santa Cruz County	Want to provide input in drafting the PA, participate in PA, and receive a final copy (form, Jan 2018)
			Santa Cruz County Flood Control District	
			Yavapai County	Do not want to provide input but want to participate in PA and receive a final copy (form, Feb 2018)



	Date	Consultation Activity	Responses																																						
31	21 Dec 2017	FHWA Section 106 PA invitation letter inviting consulting parties to provide input into drafting the PA and/or to participate in the PA; 80 letters sent	<p>Local Municipalities</p> <table border="1"> <tr> <td data-bbox="926 305 1379 396">City of Buckeye</td> <td data-bbox="1379 305 1869 396">Want to provide input in drafting the PA, participate in PA, and receive a final copy (form, Jan 2018)</td> </tr> <tr> <td data-bbox="926 396 1379 435">City of Casa Grande</td> <td data-bbox="1379 396 1869 435"></td> </tr> <tr> <td data-bbox="926 435 1379 474">City of Eloy</td> <td data-bbox="1379 435 1869 474"></td> </tr> <tr> <td data-bbox="926 474 1379 513">City of Goodyear</td> <td data-bbox="1379 474 1869 513"></td> </tr> <tr> <td data-bbox="926 513 1379 552">City of Maricopa</td> <td data-bbox="1379 513 1869 552"></td> </tr> <tr> <td data-bbox="926 552 1379 617">City of Nogales (Frank Dillion, Assistant Public Works Director)</td> <td data-bbox="1379 552 1869 617"></td> </tr> <tr> <td data-bbox="926 617 1379 682">City of Nogales (Maricela Ojeda, Nogales Historic Commission)</td> <td data-bbox="1379 617 1869 682"></td> </tr> <tr> <td data-bbox="926 682 1379 721">City of South Tucson</td> <td data-bbox="1379 682 1869 721"></td> </tr> <tr> <td data-bbox="926 721 1379 786">City of Surprise (Martin Lucero, Transportation Planning Manager)</td> <td data-bbox="1379 721 1869 786"></td> </tr> <tr> <td data-bbox="926 786 1379 850">City of Surprise (Bob Wingenroth, City Manager)</td> <td data-bbox="1379 786 1869 850"></td> </tr> <tr> <td data-bbox="926 850 1379 948">City of Tucson</td> <td data-bbox="1379 850 1869 948">Do not want to provide input, but want to participate in the PA and receive a final copy (form, Jan 2018)</td> </tr> <tr> <td data-bbox="926 948 1379 987">Town of Gila Bend</td> <td data-bbox="1379 948 1869 987"></td> </tr> <tr> <td data-bbox="926 987 1379 1084">Town of Marana</td> <td data-bbox="1379 987 1869 1084">Do not want to provide input, but want to participate in PA and receive a final copy (form, Jan 2018)</td> </tr> <tr> <td data-bbox="926 1084 1379 1156">Town of Sahuarita</td> <td data-bbox="1379 1084 1869 1156">Want to provide input, participate in the PA, and receive a final copy (Jan 2018)</td> </tr> <tr> <td data-bbox="926 1156 1379 1195">Town of Wickenburg</td> <td data-bbox="1379 1156 1869 1195"></td> </tr> <tr> <td colspan="2" data-bbox="926 1195 1869 1234" style="text-align: center;">Other Organizations</td> </tr> <tr> <td data-bbox="926 1234 1379 1273">Archaeology Southwest</td> <td data-bbox="1379 1234 1869 1273"></td> </tr> <tr> <td data-bbox="926 1273 1379 1312">Arizona Public Service</td> <td data-bbox="1379 1273 1869 1312"></td> </tr> <tr> <td data-bbox="926 1312 1379 1349">BNSF Railway</td> <td data-bbox="1379 1312 1869 1349"></td> </tr> </table>	City of Buckeye	Want to provide input in drafting the PA, participate in PA, and receive a final copy (form, Jan 2018)	City of Casa Grande		City of Eloy		City of Goodyear		City of Maricopa		City of Nogales (Frank Dillion, Assistant Public Works Director)		City of Nogales (Maricela Ojeda, Nogales Historic Commission)		City of South Tucson		City of Surprise (Martin Lucero, Transportation Planning Manager)		City of Surprise (Bob Wingenroth, City Manager)		City of Tucson	Do not want to provide input, but want to participate in the PA and receive a final copy (form, Jan 2018)	Town of Gila Bend		Town of Marana	Do not want to provide input, but want to participate in PA and receive a final copy (form, Jan 2018)	Town of Sahuarita	Want to provide input, participate in the PA, and receive a final copy (Jan 2018)	Town of Wickenburg		Other Organizations		Archaeology Southwest		Arizona Public Service		BNSF Railway	
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	Date	Consultation Activity	Responses	
31	21 Dec 2017	FHWA Section 106 PA invitation letter inviting consulting parties to provide input into drafting the PA and/or to participate in the PA; 80 letters sent	Buckeye Water Conservation and Drainage District	
			Central Arizona Irrigation and Drainage District	
			Central Arizona Project (Central Arizona Water Conservation District)	
			Cortaro-Marana Irrigation District	Do not want to provide input, but want to participate in PA and receive a final copy (form, Jan 2018)
			Green Reservoir Flood Control District	Do not want to provide input or participate in the PA, but want a copy of the final PA (form Jan 2018)
			Maricopa Flood Control District	
			Maricopa-Stanfield Irrigation and Drainage District	Want to provide input in drafting the PA, participate in the PA, and receive a final copy (form, Jan 2018)
			Roosevelt Irrigation District	Do not want to provide input or participate in the PA, but want a final copy (e-mail, 11 Jan 2018)
			Salt River Project	
			Silverbell Irrigation and Drainage District	
			Trico Electric Cooperative	Do not want to provide input, but want to participate in the PA and receive a final copy (form, Feb 2018)
			Tucson Electric Power, a UNS Energy Corporation	Do not want to provide input or participate in PA but want to receive a final copy (form, Jan 2018)
		Union Pacific Railroad		
32	30 Jan 2018	Meeting with Four Southern Tribes		
33	11 Apr 2018	FHWA initial Section 106 consultation letter to additional interested parties inviting them to participate as consulting parties, provide input into drafting the PA, and participate in the PA.	Arizona Game and Fish	Accepted invitation to be a consulting party, does want to provide input in drafting PA and participate in the PA, and receive a final copy (form, 18 April 2018)
			Tucson Historic Preservation Foundation	
34	16 Apr 2018	Meeting with SHPO		



	Date	Consultation Activity	Responses	
35	23 May 2018	FHWA letter providing PA outline requesting input from consulting parties; 72 letters sent	Federal Agencies	
			Advisory Council on Historic Preservation	Accepted invitation to participate in consultation (letter, 14 Aug 2018)
			Bureau of Indian Affairs, Western Region	Concurred with PA outline (form, 18 Jun 2018)
			Bureau of Land Management State Office	Requested to be a signatory if an alternative involves BLM lands; otherwise requested to be an invited signatory (form, 1 Jun 2018)
			Bureau of Land Management Hassayampa Field Office	Concurred with PA outline (form, 4 Jun 2018)
			Bureau of Land Management Lower Sonoran Field Office	
			Bureau of Land Management Tucson Field Office	
			Bureau of Reclamation	Concurred with PA outline (form, 30 May 2018)
			Federal Aviation Administration	
			National Park Service (Saguaro National Park)	
			San Carlos Irrigation Project, Bureau of Indian Affairs	
			US Air Force (Davis-Monthan)	
			US Air Force (Luke)	
			US Army Corps of Engineers	Requested that FHWA assume lead responsibility on behalf of the Corps for Section 106 (letter, 31 May 2018)
			US Customs and Border Protection	
			US Forest Service (Coronado National Forest)	Concurred with PA outline (form, 21 Jun 2018)
			Western Area Power Administration	



	Date	Consultation Activity	Responses																																				
35	23 May 2018	FHWA letter providing PA outline requesting input from consulting parties; 72 letters sent	<p>Federally Recognized Tribes</p> <table border="1"> <tr> <td data-bbox="926 305 1381 342">Ak-Chin Indian Community</td> <td data-bbox="1381 305 1871 342"></td> </tr> <tr> <td data-bbox="926 342 1381 380">Chemehuevi Indian Tribe</td> <td data-bbox="1381 342 1871 380"></td> </tr> <tr> <td data-bbox="926 380 1381 651">Colorado River Indian Tribes</td> <td data-bbox="1381 380 1871 651">Requested an in-person government-to-government meeting (letter, 12 Jun 2018) Government-to-government consultation on PA outline is complete; two teleconferences were held with FHWA on 16 and 23 Jul 2018; Colorado River Indian Tribes concurred with PA outline and would like to continue to be consulted regarding the project (letter, FHWA to Colorado River Indian Tribes, 16 Aug 2018)</td> </tr> <tr> <td data-bbox="926 651 1381 688">Fort Mojave Indian Tribe</td> <td data-bbox="1381 651 1871 688"></td> </tr> <tr> <td data-bbox="926 688 1381 725">Fort McDowell Yavapai Nation</td> <td data-bbox="1381 688 1871 725"></td> </tr> <tr> <td data-bbox="926 725 1381 763">Fort Yuma-Quechan Tribe</td> <td data-bbox="1381 725 1871 763"></td> </tr> <tr> <td data-bbox="926 763 1381 834">Gila River Indian Community</td> <td data-bbox="1381 763 1871 834">Concurred with PA outline (e-mail, 30 May 2018)</td> </tr> <tr> <td data-bbox="926 834 1381 872">Havasupai Tribe</td> <td data-bbox="1381 834 1871 872"></td> </tr> <tr> <td data-bbox="926 872 1381 909">Hopi Tribe</td> <td data-bbox="1381 872 1871 909">Concurred with PA outline (letter, 1 Jun 2018)</td> </tr> <tr> <td data-bbox="926 909 1381 946">Moapa Band of Piute Indians</td> <td data-bbox="1381 909 1871 946"></td> </tr> <tr> <td data-bbox="926 946 1381 984">Pascua Yaqui Tribe</td> <td data-bbox="1381 946 1871 984"></td> </tr> <tr> <td data-bbox="926 984 1381 1021">Pueblo of Zuni</td> <td data-bbox="1381 984 1871 1021"></td> </tr> <tr> <td data-bbox="926 1021 1381 1058">San Juan Southern Paiute Tribe</td> <td data-bbox="1381 1021 1871 1058"></td> </tr> <tr> <td data-bbox="926 1058 1381 1136">Salt River Pima-Maricopa Indian Community</td> <td data-bbox="1381 1058 1871 1136"></td> </tr> <tr> <td data-bbox="926 1136 1381 1174">Tonto Apache Tribe</td> <td data-bbox="1381 1136 1871 1174"></td> </tr> <tr> <td data-bbox="926 1174 1381 1245">Tohono O'odham Nation</td> <td data-bbox="1381 1174 1871 1245">Concurred with PA outline (e-mail, 18 Jun 2018)</td> </tr> <tr> <td data-bbox="926 1245 1381 1312">Yavapai-Apache Nation</td> <td data-bbox="1381 1245 1871 1312">Concurred with PA outline (form, 20 Jun 2018)</td> </tr> <tr> <td data-bbox="926 1312 1381 1385">Yavapai-Prescott Indian Tribe</td> <td data-bbox="1381 1312 1871 1385"></td> </tr> </table>	Ak-Chin Indian Community		Chemehuevi Indian Tribe		Colorado River Indian Tribes	Requested an in-person government-to-government meeting (letter, 12 Jun 2018) Government-to-government consultation on PA outline is complete; two teleconferences were held with FHWA on 16 and 23 Jul 2018; Colorado River Indian Tribes concurred with PA outline and would like to continue to be consulted regarding the project (letter, FHWA to Colorado River Indian Tribes, 16 Aug 2018)	Fort Mojave Indian Tribe		Fort McDowell Yavapai Nation		Fort Yuma-Quechan Tribe		Gila River Indian Community	Concurred with PA outline (e-mail, 30 May 2018)	Havasupai Tribe		Hopi Tribe	Concurred with PA outline (letter, 1 Jun 2018)	Moapa Band of Piute Indians		Pascua Yaqui Tribe		Pueblo of Zuni		San Juan Southern Paiute Tribe		Salt River Pima-Maricopa Indian Community		Tonto Apache Tribe		Tohono O'odham Nation	Concurred with PA outline (e-mail, 18 Jun 2018)	Yavapai-Apache Nation	Concurred with PA outline (form, 20 Jun 2018)	Yavapai-Prescott Indian Tribe	
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	Date	Consultation Activity	Responses	
35	23 May 2018	FHWA letter providing PA outline requesting input from consulting parties; 72 letters sent	State Agencies	
			Arizona Air National Guard	
			Arizona Game and Fish	Concurred with PA outline (form, 18 Jun 2018)
			Arizona State Land Department	Concurred with PA outline (form, 23 May 2018)
			Arizona State Museum	Concurred with PA outline (form, 21 Jun 2018)
			Arizona State Parks and Trails	
			State Historic Preservation Office	Stated that major points for PA identified; may need to add communication/coordination protocol due to the multi-jurisdictional nature of the undertaking, although this likely would be addressed in individual agreements (form, 11 Jun 2018)
			County Agencies	
			Flood Control District of Maricopa County	Concurred with PA outline (form, 5 Jun 2018)
			Maricopa County Department of Transportation	
			Pima County	
			Pinal County	
			Pinal County Flood Control District	Concurred with PA outline (form, 7 Jun 2018)
			Santa Cruz County	
			Santa Cruz County Flood Control District	
			Local Municipalities	
			City of Buckeye	
			City of Casa Grande	Concurred with PA outline (form, 29 May 2018)
			City of Eloy	
			City of Goodyear	Concurred with PA outline (form, 12 Jul 2018)
			City of Maricopa	



	Date	Consultation Activity	Responses	
35	23 May 2018	FHWA letter providing PA outline requesting input from consulting parties; 72 letters sent	City of Nogales	Concurred with PA outline (form, 26 Jun 2018)
			City of South Tucson	Concurred with PA outline (e-mail, 31 May 2018)
			City of Surprise	Concurred with PA outline (e-mail, 7 Jun 2018)
			City of Tucson	
			Town of Gila Bend	
			Town of Wickenburg	Concurred with PA outline, included copy of resolution supporting the alternative supporting corridor U with a close alignment of corridor V (form, 17 Jul 2018)
			Other Organizations	
			Archaeology Southwest	
			Arizona Public Service	
			BNSF Railway	
			Buckeye Water Conservation and Drainage District	
			Central Arizona Irrigation and Drainage District	
			Central Arizona Project (Central Arizona Water Conservation District)	Concurred with PA outline (form, 31 May 2018)
			Maricopa Flood Control District	
			Maricopa-Stanfield Irrigation and Drainage District	
			Roosevelt Irrigation District	
			Roosevelt Water Conservation District	
			Salt River Project	
			Silverbell Irrigation and Drainage District	
			Tucson Historic Preservation Foundation	
			Union Pacific Railroad	



	Date	Consultation Activity	Responses	
36	13 June 2018	FHWA letter providing Class I overview reports to consulting parties for review; 83 letters sent	Federal Agencies	
			Advisory Council on Historic Preservation	
			Bureau of Indian Affairs, Western Region	
			Bureau of Land Management State Office	Concurred with reports, agreed to future electronic consultation (form, 18 Jul 2018)
			Bureau of Land Management Hassayampa Field Office	
			Bureau of Land Management Lower Sonoran Field Office	Concurred with reports, agreed to future electronic consultation (form, 1 Aug 2018)
			Bureau of Land Management Tucson Field Office	
			Bureau of Reclamation	Concurred with reports, agreed to future electronic consultation (form, 20 Jun 2018)
			Federal Aviation Administration, West Coast Headquarters	
			Federal Aviation Administration, Phoenix Airports District Office	
			National Park Service (Saguaro National Park)	
			San Carlos Irrigation Project, Bureau of Indian Affairs	Concurred with reports, does not want electronic consultation (form, 1 Aug 2018)
			US Air Force (Davis-Monthan AFB)	
			US Air Force (Luke AFB)	
			US Army Corps of Engineers	
			US Customs and Border Protection	
			US Forest Service (Coronado National Forest)	Concurred with reports, agreed to future electronic consultation (form, 13 Jul 2018)
			Western Area Power Administration	
			Federally Recognized Tribes	
			Ak-Chin Indian Community	Acknowledged receipt of reports (letter, 28 Jun 2018)



36	Date	Consultation Activity	Responses	
	13 June 2018	FHWA letter providing Class I overview reports to consulting parties for review; 83 letters sent	Chemehuevi Indian Tribe	
			Colorado River Indian Tribes	
			Fort McDowell Yavapai Nation	
			Fort Mojave Indian Tribe	
			Fort Yuma-Quechan Tribe	Acknowledged receipt of reports, requested more information about the project (e-mail, 18 Jun 2018)
			Gila River Indian Community	
			Havasupai Tribe	
			Hopi Tribe	Reviewed reports and requested continued consultation (letter, 21 Jun 2018)
			Hualapai Tribe	
			Moapa Band of Piute Indians	
			Pascua Yaqui Tribe	
			Pueblo of Zuni	
			San Juan Southern Paiute Tribe	
			Salt River Pima-Maricopa Indian Community	
			Tonto Apache Tribe	
			Tohono O'odham Nation	
			Yavapai-Apache Nation	
			Yavapai-Prescott Indian Tribe	Asked "Yavapai-Apache" to be changed to "Yavapai community" in discussion of Yavapai-Prescott Indian community (page 35), and does not want electronic consultation in the future (form, 10 Aug 2018)
			State Agencies	
			Arizona Air National Guard	



36	Date	Consultation Activity	Responses	
	13 June 2018	FHWA letter providing Class I overview reports to consulting parties for review; 83 letters sent	Arizona Game and Fish Department	Concluded the archeological and historic structures overview provided inadequate and misleading information for decision makers because data sources were limited, methods were faulty, discussions of environmental and cultural history contexts were not sufficiently detailed and tabular summaries and mapping of data were confusing (e-mail, 19 Jul 2018).
			Arizona Game and Fish Department	FHWA Response: FHWA acknowledged the Arizona Game and Fish Department's comments and provided a comment response table (letter, 24 Sep 2018)
			Arizona State Land Department	Concurred with reports, agreed to future electronic consultation (form, 13 Jun 2018)
			Arizona State Museum	
			Arizona State Parks and Trails	
			State Historic Preservation Office	Concurred with reports, agreed to future electronic consultation (form, 2 Jul 2018)
			County Agencies	
			Flood Control District of Maricopa County	
			Maricopa County Department of Transportation	
			Pima County (Roger Anyon)	
			Pima County (Ian Milliken)	
			Pinal County	Concurred with reports, agreed to future electronic consultation (form, 22 Jun 2018)
			Pinal County Flood Control District	
			Pinal County Transportation Manager	
			Santa Cruz County	Concurred with reports, agreed to future electronic consultation (form, 15 Jun 2018)
			Santa Cruz County Flood Control District	
			Yavapai County	



	Date	Consultation Activity	Responses	
36	13 June 2018	FHWA letter providing Class I overview reports to consulting parties for review; 83 letters sent	Local Municipalities	
			City of Buckeye	
			City of Casa Grande	
			City of Eloy	
			City of Goodyear	Concurred with reports, agreed to future electronic consultation (form, 22 Jun 2018)
			City of Maricopa	
			City of Nogales	Concurred with reports, agreed to future electronic consultation (form, 26 Jun 2018)
			City of South Tucson	
			City of Surprise	
			City of Tucson	
			Town of Gila Bend	
			Town of Marana	Concurred with reports, agreed to future electronic consultation (form, 3 Jul 2018)
			Town of Sahuarita	Concurred with reports, agreed to future electronic consultation (form, 19 Jun 2018)
			Town of Wickenburg	
			Other Organizations	
			Archaeology Southwest	Acknowledged co-located corridor options have adverse effects but appear preferable; consider atmospheric and auditory effects; continue consultation (e-mail, 18 Jun 2018)
			Arizona Public Service	Concurred with reports, agreed to future electronic consultation (form, 18 Jul 2018)
			BNSF Railway	
			Buckeye Water Conservation and Drainage District	
			Central Arizona Irrigation and Drainage District	
			Central Arizona Project	



	Date	Consultation Activity	Responses	
36	13 June 2018	FHWA letter providing Class I overview reports to consulting parties for review; 83 letters sent	Cortaro-Marana Irrigation District	Concurred with reports (form, 21 Jun 2018)
			Green Reservoir Flood Control District	
			Maricopa Flood Control District	
			Maricopa-Stanfield Irrigation and Drainage District	
			Roosevelt Irrigation District	
			Roosevelt Water Conservation District	
			Salt River Project	
			Silverbell Irrigation and Drainage District	
			Trico Electric Cooperative	Concurred with reports, agreed to future electronic consultation (form, 22 Jun 2018)
			Tucson Electric Power, a UNS Energy Corporation	
			Tucson Historic Preservation Foundation	
		Union Pacific Railroad		
37	21 Aug 2018	FHWA letter transmittal of PA outline requesting input from consulting parties and providing Class I overview report for review and comment to additional National Park Service staff; 4 letters sent	National Park Service (Saguaro National Park) – Mr. Adam Springer, Resource Management Specialist	
			National Park Service (Saguaro National Park) – Ms. Leah McGinnis, Superintendent	Concurred with reports and PA outline (form, 18 Oct 2018)
			National Park Service (Regional Office) – Ms. Melissa R. Trenchik, Chief, Environmental Quality IMR	
			National Park Service (Regional Office) – Mr. David Hurd	
38	21 Aug 2018	FHWA transmittal of draft PA to consulting parties for review and comment; 72 letters sent	Federal Agencies	
			Advisory Council on Historic Preservation	
			Bureau of Indian Affairs, Western Region	Concurred with draft PA (form, 4 Sep 2018)
			Bureau of Land Management State Office	
			Bureau of Land Management Hassayampa Field Office	



	Date	Consultation Activity	Responses	
38	21 Aug 2018	FHWA transmittal of draft PA to consulting parties for review and comment; 72 letters sent	Bureau of Land Management Lower Sonoran Field Office	
			Bureau of Land Management Tucson Field Office	
			Bureau of Reclamation	<p>Requested clarification about the lead agency on pages 1 and 5 of the draft PA (e-mail, 23 Aug 2018)</p> <p>ADOT Response: FHWA is the lead for all Tier 1 activities; FHWA, ADOT, or another federal agency might be lead agency on Tier 2 undertakings (e-mail, 23 Aug 2018)</p> <p>Bureau of Reclamation Response: Requested text be revised to read "ADOT or Federal Highways will be the lead federal agencies in most cases. However, in some cases another federal land management agency may take the lead role if they so choose and ADOT/Federal Highways agree" (e-mail, 28 Aug 2018)</p> <p>ADOT Response: FHWA and ADOT concluded the original wording allowed more flexibility to determine the appropriate lead agency for each future Tier 2 project (e-mail, 12 Sep 2018)</p> <p>Bureau of Reclamation Response: Further concluded the original wording was acceptable (e-mails, 17 and 18 Sep 2018)</p> <p>ADOT Response: Final PA will be distributed for signatures after the public review/comment period has concluded for the DEIS, which is scheduled to be distributed in late 2018 or early 2019 (e-mail, 18 Sept 2018)</p>
			Federal Aviation Administration, West Coast Headquarters	



	Date	Consultation Activity	Responses	
38	21 Aug 2018	FHWA transmittal of draft PA to consulting parties for review and comment; 72 letters sent	Federal Aviation Administration, Phoenix Airports District Office	
			National Park Service (Saguaro National Park)	
			San Carlos Irrigation Project, Bureau of Indian Affairs	Concurred with draft PA (form, 14 Sep 2018)
			US Air Force (Davis-Monthan AFB)	
			US Air Force (Luke AFB)	
			US Forest Service (Coronado National Forest)	Concurred with draft PA (form, 24 Sep 2018)
			US Army Corps of Engineers	Comment regarding sentence that begins on line 6 and continues on line 7, page 2: "Lead agency for Sec 106 was discussed above. Is this redundant, or could the lead for NEPA be different than for NHPA?" and also requested information about schedule for issuance of the DEIS (e-mail 28 Aug 2018)
			US Customs and Border Protection	
			Western Area Power Administration	
			Federally Recognized Tribes	
			Ak-Chin Indian Community	
			Chemehuevi Indian Tribe	
			Colorado River Indian Tribes	
			Fort McDowell Yavapai Nation	
			Fort Mojave Indian Tribe	
			Fort Yuma-Quechan Tribe	Indicated that they do not want to sign the PA as a concurring party, but do want to continue consultation on the project (memo, 20 Nov 2018)
			Gila River Indian Community	
			Havasupai Tribe	
			Hopi Tribe	



	Date	Consultation Activity	Responses	
38	21 Aug 2018	FHWA transmittal of draft PA to consulting parties for review and comment; 72 letters sent	Moapa Band of Piute Indians	
			Pascua Yaqui Tribe	
			Pueblo of Zuni	Requested lines 41-42, page 2 be revised to indicate the Pueblo of Zuni wants to be involved in development of the PA and be a party to the PA (e-mail, 28 Aug 2018)
			Salt River Pima-Maricopa Indian Community	
			San Juan Southern Paiute Tribe	
			Tohono O'odham Nation	
			Tonto Apache Tribe	
			Yavapai-Apache Nation	
			Yavapai-Prescott Indian Tribe	<p>Requested change in status to consulting party and asked if that would entail being an invited signatory (e-mail, 14 Sep 2018)</p> <p>ADOT Response: The PA will be revised to indicate that the Yavapai Prescott Indian Tribe would be a concurring party because they have no responsibility because there are no alignments across the Tribe's lands; if the Tribe desires to be an invited signatory, a meeting can be scheduled with FHWA to discuss (e-mail, 17 Sep 2018)</p> <p>Yavapai-Prescott Indian Tribe Response: The Tribe would like to be a concurring party (e-mail, 18 Sep 2018)</p> <p>ADOT Response: Confirmed the Yavapai-Prescott Indian Tribe will be a concurring party (e-mail, 18 Sep 2018)</p>
			State Agencies	
			Arizona Air National Guard	



	Date	Consultation Activity	Responses	
38	21 Aug 2018	FHWA transmittal of draft PA to consulting parties for review and comment; 72 letters sent	Arizona Game and Fish Department	
			Arizona State Land Department	
			Arizona State Museum	Concurred with draft PA (form, 1 Oct 2018)
			Arizona State Parks and Trails	Concurred with draft PA; requested that name of agency be corrected to "Arizona State Parks and Trails" (letter, 24 Aug 2018)
			State Historic Preservation Office	Provided numerous comments related primarily to (1) delineating the area of potential effects for Tier 2 undertakings, (2) consistent use of "project" and "undertaking," (3) status of concurring parties and invited signatories, (4) lead agency responsibilities, (5) disclosures under the Freedom of Information Act, (6) annual reports, (7) organization of whereas statements, and (8) editorial suggestions.
			County Agencies	
			Flood Control District of Maricopa County	Concurred with draft PA (form, 22 Aug 2018)
			Maricopa County Department of Transportation	
			Pima County (Roger Anyon)	
			Pima County (Ian Milliken)	Requested the Stipulation 1.c be revised to indicate shapefiles (spatial data) would be provided to any signatory/concurring parties should they request it (e-mail, 5 Sep 2018)
			Pinal County Flood Control District	Declined participation in historic preservation consultation and the PA (letter, 10 Oct 2018)
			Pinal County Transportation Manager	
			Santa Cruz County	
			Santa Cruz County Flood Control District	
			Local Municipalities	
			City of Buckeye	
			City of Casa Grande	



	Date	Consultation Activity	Responses	
38	21 Aug 2018	FHWA transmittal of draft PA to consulting parties for review and comment; 72 letters sent	City of Eloy	
			City of Goodyear	
			City of Maricopa	
			City of Nogales	
			City of South Tucson	
			City of Surprise	
			Town of Gila Bend	
			Town of Wickenburg	Sent copies of letters distributed by the Wickenburg Town Manager to 16 federal, state, and county officials regarding Resolution No 2112, unanimously passed by the Common Council of the Town of Wickenburg authorizing official support of a preferred alignment of Interstate 11 (e-mail, 28 Aug 2018)
			Other Organizations	
			Archaeology Southwest	Declined to concur but requested continued participation in the consultation and planning process (e-mail, 23 Sept 2018)
			Arizona Public Service	Concurred with draft PA (form, 18 Oct 2018)
			BNSF Railway	
			Buckeye Water Conservation and Drainage District	
			Central Arizona Irrigation and Drainage District	
			Central Arizona Project (Central Arizona Water Conservation District [CAWCD])	Does not want to participate in PA, but does wish to continue to participate in Section 106 consultation. Requested future correspondence be directed to Tom Fitzgerald, Supervisor, Land and Survey (e-mail, 26 Sep 2018)
			Maricopa Flood Control District	Board voted unanimously to concur with draft PA on 5 Sep 2018 (form, 6 Sep 2018)



	Date	Consultation Activity	Responses
38	21 Aug 2018	FHWA transmittal of draft PA to consulting parties for review and comment; 72 letters sent	Maricopa-Stanfield Irrigation and Drainage District
			Roosevelt Water Conservation District
			Salt River Project
			Silverbell Irrigation and Drainage District
			Tucson Historic Preservation Foundation
			Union Pacific Railroad
39	22 Aug 2018	FHWA transmittal of draft PA to consulting party for review and comment	Roosevelt Irrigation District
40	18 Oct 2018	FHWA transmittal of the final Class I cultural resource overview reports to consulting parties; 80 letters sent	Federal Agencies
			Advisory Council on Historic Preservation
			Bureau of Indian Affairs, Western Region
			Bureau of Indian Affairs, San Carlos Irrigation Project
			Bureau of Land Management, State Office
			Bureau of Land Management, Hassayampa Field Office
			Bureau of Land Management, Lower Sonoran Field Office
			Bureau of Land Management, Tucson Field Office
			Bureau of Reclamation
			Federal Aviation Administration, Phoenix Airports District Office
			National Park Service, Saguaro National Park
			US Air Force, Davis-Monthan AFB
			US Air Force, Luke AFB
			US Army Corps of Engineers
US Customs and Border Protection			



	Date	Consultation Activity	Responses			
40	18 Oct 2018	FHWA transmittal of the final Class I cultural resource overview reports to consulting parties; 80 letters sent	US Forest Service, Coronado National Forest			
			Western Area Power Administration			
			Federally Recognized Tribes			
			Ak-Chin Indian Community	Ak-Chin Indian Community		
			Chemehuevi Indian Tribe			
			Colorado River Indian Tribes			
			Fort McDowell Yavapai Nation			
			Fort Mojave Indian Tribe			
			Fort Yuma-Quechan Tribe			
			Gila River Indian Community			
			Havasupai Tribe			
			Hopi Tribe			
			Hualapai Tribe			
			Moapa Band of Paiute Indians			
			Navajo Nation			
			Pascua Yaqui Tribe			
			Pueblo of Zuni			
			San Juan Southern Paiute Tribe			
			Salt River Pima-Maricopa Indian Community			
			Tonto Apache Tribe			
			Tohono O'odham Nation			
			White Mountain Apache Tribe			
			Yavapai-Apache Nation			
			Yavapai-Prescott Indian Tribe			
			State Agencies			
			Arizona Air National Guard			
Arizona Game and Fish Department						



	Date	Consultation Activity	Responses	
40	18 Oct 2018	FHWA transmittal of the final Class I cultural resource overview reports to consulting parties; 80 letters sent	Arizona State Land Department	
			Arizona State Museum	
			Arizona State Parks	
			State Historic Preservation Office	
			County Agencies	
			Flood Control District of Maricopa County	
			Maricopa County Department of Transportation	
			Pima County (Roger Anyon)	
			Pima County (Ian Milliken)	
			Pinal County Engineer	
			Pinal County Transportation Manager	
			Santa Cruz County	
			Santa Cruz County Flood Control District	
			Local Municipalities	
			City of Buckeye	
			City of Casa Grande	
			City of Eloy	
			City of Goodyear	
			City of Maricopa	
			City of Nogales	
			City of South Tucson	
			City of Surprise	
			City of Tucson	
			Town of Gila Bend	
			Town of Sahuarita	
			Town of Wickenburg	



	Date	Consultation Activity	Responses																																		
40	18 Oct 2018	FHWA transmittal of the final Class I cultural resource overview reports to consulting parties; 80 letters sent	<p style="text-align: center;">Other Organizations</p> <table border="1"> <tr><td>Archaeology Southwest</td><td></td></tr> <tr><td>Arizona Public Service</td><td></td></tr> <tr><td>BNSF Railroad Company</td><td></td></tr> <tr><td>Buckeye Water Conservation and Drainage District</td><td></td></tr> <tr><td>Central Arizona Irrigation and Drainage District</td><td></td></tr> <tr><td>Central Arizona Project</td><td></td></tr> <tr><td>Cortaro-Marana Irrigation District</td><td></td></tr> <tr><td>Green Reservoir Flood Control District</td><td></td></tr> <tr><td>Maricopa Flood Control District</td><td></td></tr> <tr><td>Maricopa-Stanfield Irrigation and Drainage District</td><td></td></tr> <tr><td>Roosevelt Irrigation District</td><td></td></tr> <tr><td>Silverbell Irrigation and Drainage District</td><td></td></tr> <tr><td>Salt River Project</td><td></td></tr> <tr><td>Trico Electric Cooperative</td><td></td></tr> <tr><td>Tucson Electric Power, a UNS Energy Corporation</td><td></td></tr> <tr><td>Tucson Historic Preservation Foundation</td><td></td></tr> <tr><td>Union Pacific Railroad</td><td></td></tr> </table>	Archaeology Southwest		Arizona Public Service		BNSF Railroad Company		Buckeye Water Conservation and Drainage District		Central Arizona Irrigation and Drainage District		Central Arizona Project		Cortaro-Marana Irrigation District		Green Reservoir Flood Control District		Maricopa Flood Control District		Maricopa-Stanfield Irrigation and Drainage District		Roosevelt Irrigation District		Silverbell Irrigation and Drainage District		Salt River Project		Trico Electric Cooperative		Tucson Electric Power, a UNS Energy Corporation		Tucson Historic Preservation Foundation		Union Pacific Railroad	
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41	21 Nov 2018	FHWA letter to the SHPO summarizing the results of a meeting held on 7 Nov 2018 to discuss potential impacts to historic properties and FHWA's recommendations regarding adverse effects to historic properties afforded Section 4(f) protection within the proposed Build Corridor Alternatives in the Tucson metropolitan area in the South Section. Letter transmitted the meeting notes to the SHPO for review and comment.	SHPO has no comments or revisions to the letter and meeting notes, and concurs with the recommendations and commitments made at the 7 Nov 2018 meeting and described in the 21 Nov 2018 letter (letter, 23 Nov 2018).																																		



Draft Programmatic Agreement



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**Working Draft
PROGRAMMATIC AGREEMENT
AMONG**

**FEDERAL HIGHWAY ADMINISTRATION,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
ARIZONA STATE HISTORIC PRESERVATION OFFICE
ARIZONA DEPARTMENT OF TRANSPORTATION**

REGARDING

INTERSTATE 11, NOGALES TO WICKENBURG, ARIZONA,

SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA

13 **WHEREAS**, the Federal Highway Administration (FHWA) provides funding assistance to the
14 Arizona Department of Transportation (ADOT) through the Federal-aid Highway Program
15 (Program), which is subject to Section 106 of the National Historic Preservation Act of 1966
16 (NHPA), as amended [54 United States Code (USC) § 306108] and its implementing regulations
17 at 36 Code of Federal Regulations (CFR) Part 800 (Section 106); and

18 **WHEREAS**, Title 23 USC 326 and 23 USC 327 allow the United States Department of
19 Transportation Secretary, acting through FHWA, to assign responsibilities for compliance with
20 the National Environmental Policy Act of 1969 (NEPA) and other federal environmental laws to
21 a State Department of Transportation through a memorandum of understanding (MOU); and
22

23 **WHEREAS**, FHWA and ADOT have entered into two MOUs, included in this programmatic
24 agreement (Agreement) as Attachments B and C respectively, as provided for in 23 USC 326
25 and 23 USC 327 respectively, through which FHWA assigned and ADOT assumed FHWA's
26 responsibilities for compliance with NEPA and Section 106 for all Program-funded transportation
27 projects in Arizona; and
28

29 **WHEREAS**, under the MOUs, ADOT is deemed to be the responsible Federal agency for the
30 purposes of compliance with 36 CFR 800, except for projects not assigned under the 327 MOU
31 (see Attachment C); and
32

33 **WHEREAS**, FHWA shall be the responsible Federal agency for the purposes of compliance
34 with 36 CFR Part 800 for Program-funded transportation projects not assigned under the 327
35 MOU; and
36

37 **WHEREAS**, the Division Administrator is the FHWA agency official for the Program-funded
38 transportation projects not assigned under the 327 MOU; and
39

40 **WHEREAS**, the Environmental Administrator is the ADOT agency official for the Program-
41 funded transportation projects assigned under the 327 MOU; and
42

43 **WHEREAS**, the FHWA is preparing a Tier 1 Environmental Impact Statement (EIS) to evaluate
44 Build Corridor Alternatives for the proposed development of Interstate 11 (I-11) between
45 Nogales and Wickenburg, Arizona (see Attachment A, I-11 Build Corridor Alternatives), a
46 federally-funded project in Santa Cruz, Pima, Pinal, Maricopa, and Yavapai counties, Arizona,
47 with a 40-year planning and implementation horizon (the Undertaking); and

1 **WHEREAS**, at the completion of the Tier 1 EIS, FHWA may select a Build Corridor Alternative,
2 approximately 2,000 feet wide, for designation and development of I-11 between Nogales and
3 Wickenburg, Arizona; and

4 **WHEREAS**, if a Build Corridor Alternative is selected, subsequent phased design, assessment
5 of environmental impacts pursuant to the NEPA, and construction of specific Tier 2 projects to
6 implement the Undertaking during the 40-year planning horizon, could involve use of co-located
7 highways with or without upgrades, and/or construction of segments of new interstate highway
8 would be pursued; and

9 **WHEREAS**, Tier 2 undertakings would be studied and constructed in multiple, separate
10 undertakings over the 40-year planning horizon; and

11 **WHEREAS**, FHWA has developed this Agreement for the Tier 1 EIS, to define and outline how
12 individual Tier 2 projects would be carried out, detail environmental commitments, and to satisfy
13 the requirements of Section 106 pursuant to 36 CFR 800.14(b)(1)(i, ii); and

14 **WHEREAS**, all the historic properties, including traditional cultural properties, that may be
15 affected by this Undertaking have not yet been identified; and

16 **WHEREAS**, the Undertaking may have an adverse effect on historic properties, pursuant to
17 36 CFR 800.5(a)(2)(i); and

18 **WHEREAS**, the Arizona State Historic Preservation Office (SHPO) is authorized to enter into
19 this Agreement in order to fulfill its role of advising and assisting federal agencies in carrying out
20 their responsibilities pursuant to Sections 101 and 106 of the NHPA and 36 CFR 800.2(c)(1)(i)
21 and 800.6(b)(1)(i), and SHPO is a signatory to this Agreement; and

22 **WHEREAS**, FHWA has notified the Advisory Council on Historic Preservation (ACHP) about the
23 potential for effects resulting from the Undertaking, pursuant to 36 CFR 800.6(b)(2), and invited
24 the ACHP to participate in this Agreement, and the ACHP has accepted the invitation; and

25 **WHEREAS**, the ADOT is the Undertaking sponsor and must comply with the State Historic
26 Preservation Act, and ADOT's participation in this agreement as an invited signatory satisfies
27 compliance with Arizona Revised Statutes (A.R.S.) 41-861 through 41- 864; and

28 **WHEREAS**, FHWA has consulted with the following federal agencies: the Bureau of Indian
29 Affairs, San Carlos Irrigation Project; Bureau of Indian Affairs, Western Region; Bureau of Land
30 Management, Arizona State Office; Bureau of Land Management, Hassayampa Field Office;
31 Bureau of Land Management, Lower Sonoran Field Office; Bureau of Land Management,
32 Tucson Field Office; Bureau of Reclamation; the U.S. Forest Service, Coronado National Forest;
33 Federal Aviation Administration, West Coast Headquarters; Federal Aviation Administration,
34 Phoenix Airports District Office; Federal Railroad Administration; National Park Service,
35 Saguaro National Park; U.S. Army Corps of Engineers; U.S. Air Force, Davis-Monthan Air Force
36 Base (USAF); Luke Air Force Base; U.S. Customs and Border Protection; U.S. Fish and Wildlife
37 Service; and Western Area Power Administration; pursuant to 36 CFR 800.2(c)4 and these
38 agencies have been invited to be concurring parties to this Agreement; and

39 **WHEREAS**, the Federal Railroad Administration and U.S. Fish and Wildlife Service have
40 declined to participate in consultation; and

41 **WHEREAS**, FHWA has consulted with and invited the following Indian Tribes that may attach
42 religious or cultural importance to affected properties [pursuant to 36 CFR 800.2 (c)(2)(ii)(A-F)]
43 to be concurring parties to this Agreement: Ak-Chin Indian Community, Chemehuevi Indian
44 Tribe, Cocopah Indian Tribe, Colorado River Indian Tribes, Fort McDowell Yavapai Nation, Fort
45 Mojave Indian Tribe, Fort Yuma-Quechan Tribe, Gila River Indian Community, Havasupai Tribe,

1 Hopi Tribe, Hualapai Tribe, Kaibab Band of Paiute Indians, Moapa Band of Paiute Indians,
2 Navajo Nation, Pascua Yaqui Tribe, Pueblo of Zuni, Salt River Pima-Maricopa Indian
3 Community, San Carlos Apache Tribe, San Juan Southern Paiute Tribe, Tohono O’odham
4 Nation, Tonto Apache Tribe, White Mountain Apache Tribe, Yavapai-Apache Nation, and
5 Yavapai-Prescott Indian Tribe; and

6 **WHEREAS**, the Tohono O’odham Nation has requested to be an invited signatory to this
7 Agreement; and

8 **WHEREAS**, the Hopi Tribe has requested the opportunity to participate in development of this
9 Agreement but not be a party to the Agreement, but wants to continue to participate in
10 consultation; and

11 **WHEREAS**, the Hualapai Tribe, Navajo Nation, and White Mountain Apache Tribe have
12 declined participation in this Agreement, but want to continue to participate in consultation; and

13 **WHEREAS**, the Cocopah Indian Tribe, Kaibab Band of Paiute Indians, and the San Carlos
14 Apache Tribe have declined to participate in consultation, deferring to Tribes near the
15 Undertaking; and

16 **WHEREAS**, Tribal participation in the Agreement does not constitute approval of the outcome of
17 the Tier 1 EIS; and

18 **WHEREAS**, FHWA has consulted, pursuant to 36 CFR 800.2(c)(3), with the following state
19 agencies: Arizona Air National Guard, Arizona Department of Corrections, Arizona Game and
20 Fish Department, Arizona State Land Department, and Arizona State Parks and Trails inviting
21 them to be concurring parties to this Agreement; and

22 **WHEREAS**, the Arizona Department of Corrections has declined to participate in consultation;
23 and

24 **WHEREAS**, FHWA has consulted, pursuant to 36 CFR 800.2(c)(3), with the following
25 municipalities: City of Buckeye, City of Casa Grande, City of Eloy, City of Goodyear, City of
26 Maricopa, City of Nogales, City of South Tucson, City of Surprise, City of Tucson, Town of Gila
27 Bend, Town of Marana, Town of Oro Valley, Town of Sahuarita, and Town of Wickenburg
28 inviting them to be concurring parties to this Agreement; and

29 **WHEREAS**, the Town of Oro Valley has declined to participate in consultation; and

30 **WHEREAS**, FHWA has consulted, pursuant to 36 CFR 800.2(c)(3), with the following county
31 agencies: Flood Control District of Maricopa County, Maricopa County Department of
32 Transportation, Pima County, Pima County Regional Flood Control District, Pinal County, Pinal
33 County Flood Control District, Santa Cruz County, Santa Cruz County Flood Control District,
34 Yavapai County, and Yavapai County Flood Control District inviting them to be concurring
35 parties to this Agreement; and

36 **WHEREAS**, the Pima County Regional Flood Control District, Pinal County Flood Control
37 District, and Yavapai County Flood Control District have declined to participate in consultation;
38 and

39 **WHEREAS**, FHWA has consulted, pursuant to 36 CFR 800.2(c)(5) with Archaeology
40 Southwest; Arizona Public Service Company; BNSF Railroad Company, Buckeye Water
41 Conservation and Drainage District; Central Arizona Irrigation and Drainage District; Central
42 Arizona Water Conservation District; Cortaro-Marana Irrigation District; Green Reservoir Flood
43 Control District; Maricopa Flood Control District; Maricopa-Stanfield Irrigation and Drainage
44 District; Roosevelt Irrigation District; Roosevelt Water Conservation District; Salt River Project;
45 Silverbell Irrigation and Drainage District; Trico Electric Cooperative; Tucson Electric Power, a

1 UNS Energy Corporation; Tucson Historic Preservation Foundation; and Union Pacific Railroad;
2 inviting them to be concurring parties to this Agreement; and

3 **WHEREAS**, the Central Arizona Water Conservation District, Green Reservoir Flood Control
4 District; Roosevelt Irrigation District; and Tucson Electric Power, a UNS Energy Corporation
5 have declined participation in this Agreement, but want to continue to participate in consultation;
6 and

7 **WHEREAS**, the Roosevelt Water Conservation District has declined to participate in
8 consultation; and

9 **WHEREAS**, FHWA has consulted the Arizona State Museum (ASM) and ASM has been invited
10 to participate pursuant to 36 CFR 800.6(c)(2)(iii), because it has mandated authority and
11 responsibilities under the Arizona Antiquities Act (AAA), A.R.S. § 41-841 et seq., that apply to
12 that portion of the Undertaking on state lands in Arizona (state, county, municipality, or other
13 subdivision of the state), and mandated authority and responsibilities under A.R.S. § 41-865 that
14 apply to that portion of the Undertaking on private lands, and is a concurring party to this
15 Agreement; and

16 **NOW, THEREFORE**, the signatory parties agree that development of the Undertaking shall be
17 implemented in accordance with the following stipulations in order to take into account any
18 effects of the Undertaking on historic properties, and these stipulations will govern the
19 Undertaking and all of its phases until the Agreement expires or is terminated.

20

DRAFT

1 **STIPULATIONS**

2 FHWA and ADOT, according to Stipulation 1, will ensure that the following stipulations are
3 carried out:

4 **1. FHWA and ADOT Roles and Responsibilities**

- 5 a. ADOT will notify all consulting parties of the role of ADOT and FHWA for all I-11 projects
6 Tier 1 and Tier 2). The notice will indicate whether ADOT has assumed FHWA's
7 responsibilities for Section 106 compliance for the project or not, pursuant to the
8 assignment MOUs (see Attachments B and C). ADOT will be responsible for
9 implementing the stipulations of this agreement for projects they have assumed FHWA's
10 Section 106 responsibilities.
- 11 b. For projects where ADOT has not assumed Section 106 responsibilities, FHWA shall
12 implement the stipulations of this agreement.
- 13 c. The United States Department of Transportation Secretary's responsibilities for
14 government-to-government consultation with Indian tribes, as defined in 36 CFR
15 800.16(m), are not assigned to or assumed by ADOT under this Agreement.

16
17 **2. The Tier 1 Project**

- 18 a. FHWA is responsible for implementing the terms of this Agreement for the I-11 Tier 1
19 project.
- 20 b. Pursuant to 36 CFR 800.4(b)(2) and 800.5(a)(3), the Tier 1 approach to Section 106
21 compliance follows a phased approach for identifying historic properties, including
22 archaeological resources, historic built environment resources, and traditional cultural
23 resources, listed in, or eligible for listing in, the National Register of Historic Places
24 (NRHP) and evaluating effects.
- 25 c. FHWA completed Class I inventory surveys for the Tier 1 project that identified historic
26 properties listed in and / or eligible for the NRHP, as well as cultural resources that are
27 unevaluated for listing, and these historic properties and cultural resources could be
28 affected by the Undertaking.
- 29 d. FHWA provided the results of the Class 1 inventories to the consulting parties for this
30 project for their review and comment and FHWA has considered these comments in the
31 EIS decision making.
- 32 e. FHWA and ADOT completed face to face consultation with all the tribal representatives
33 that expressed interest in this project and obtained some information about properties of
34 traditional, religious and cultural importance. FHWA employed that information to avoid
35 impacts for the Tier 1 project to properties of importance to the tribes.
- 36 f. FHWA used and coordinated the NEPA public participation requirements to assist in
37 satisfying the public involvement requirements under Section 106 of the NHPA pursuant
38 to 36 CFR 800.2(d)(3).

39
40 **3. The Tier 2 Projects**

41 ADOT or FHWA, pursuant to Stipulation 1 shall implement the following:

- 42 a. Determine the consulting parties for each Tier 2 project in consultation with the SHPO.
43 Any consulting party not currently an invited signatory, may request to become an invited
44 signatory. Adding an invited signatory to this agreement will trigger the amendment
45 process.
- 46 b. Satisfy the public involvement requirements under Section 106 of the NHPA pursuant to
47 36 CFR 800.2(d)(3) in coordination with the NEPA public participation requirements.

- 1 c. Provide consulting parties with information on existing inventories and eligible historic
2 properties and be informed of locations where new inventory survey will be planned.
- 3 d. Provide the consulting parties with cultural resource survey reports for a 30-calendar day
4 review and comment period.
- 5 e. Share with consulting parties any plans, related documents, and digital spatial data, as
6 warranted, pertaining to the Tier 2 Projects to the consulting parties for a 30-calendar-
7 day review and comment period.
- 8 f. Provide consulting parties with an opportunity to provide input concerning design and
9 construction of Tier 2 projects.
- 10 g. Inform consulting parties of the outcome of the application of the criteria of adverse
11 effect. If the project effect is adverse, the ACHP will be notified, provided with the
12 documentation required and asked to participate.
- 13 h. Resolve any identified adverse effects of Tier 2 Projects on historic properties through
14 development of project-specific treatment plan, subject to review and comment by the
15 consulting parties and concurrence by the SHPO. The treatment plan will specify:
- 16 1) The properties or portions of properties where data recovery is to be carried out. The
17 treatment plan will also specify any property or portion of property that would be
18 destroyed or altered without treatment along with the rationale for not treating the
19 property or portion of property;
- 20 2) The results of previous research relevant to the project,
- 21 3) An historic context, or contexts to guide the focus of the research,
- 22 4) The research questions to be addressed through data recovery, with an explanation
23 of their relevance and importance within an appropriate historic context;
- 24 5) The field and laboratory analysis methods to be used, with an explanation of their
25 relevance to the research questions;
- 26 6) The methods to be used in analysis, data management, and dissemination of data to
27 the professional community and the public;
- 28 7) The proposed disposition and curation of recovered materials and records in
29 accordance with 36 CFR 79 and with Federal land manager direction and policy for
30 materials recovered on federal lands;
- 31 8) A Monitoring and Discovery Plan outlining the procedures for monitoring, evaluating
32 and treating discoveries of unexpected or newly identified properties during
33 construction with planning, including consultation with other parties;
- 34 9) A protocol for the treatment of Human Remains, in the event that such remains are
35 discovered, describing methods and procedures for the recovery, analysis,
36 treatment, and disposition of Human Remains, Associated Funerary Objects, and
37 Objects of Cultural Patrimony. This protocol will reflect concerns and/or conditions
38 identified as a result of consultations among parties to this Agreement and will be
39 consistent with the ASM Burial agreement for State Lands and with NAGPRA for
40 federal or Tribal lands;
- 41 10) A proposed schedule for project tasks, including a schedule for the submission of
42 draft and final archaeological reports to the consulting parties to this Agreement;
- 43 11) The treatment plan will include a public involvement plan that includes benefits to the
44 public.
- 45 i. All Tier 2 Projects shall respect the commitment to avoid all adverse effects to the
46 archaeological site AZ T:14:115(ASM).
- 47 j. The consulting parties will be provided with copies of all technical reports for their review
48 and comment.

49 **4. Professional Qualification Standards**

1 The lead agency will ensure that activities carried out under the terms of this Agreement shall
2 be done by or under the supervision of persons meeting the Secretary of the Interior's
3 Professional Qualifications Standards (48 Federal Register 44738-44739) and terms of any
4 permits issued for archaeological investigations.

5 **5. Permitting and Curation**

6 Any Tier 2 archaeological investigation on federal land will be conducted in accordance with a
7 permit issued by the federal land managing agency, and archaeological investigations on state
8 land will be conducted in accordance with an AAA permit issued by the Arizona State Museum
9 pursuant to A.R.S. § 41-842.

10 All materials and records resulting from the Tier 2 projects shall be curated in accordance with
11 36 CFR 79, and any applicable Tribal or Federal land managing agency direction or policy.

12 **6. Confidentiality**

13 Federal agencies managing federal lands or SHPO may withhold information about the location,
14 character, or ownership of a history property provided the requirements of Section 304 of the
15 NHPA and of 36 CFR 800.11(c) are met.

16 Federal agencies managing federal lands may withhold information about the nature and
17 location of archaeological resources pursuant to Section 9 of the Archaeological Resources
18 Protection Act (16 USC 470hh) and its implementing regulations (43 CFR 7.18).

19 State agencies managing lands owned or controlled by the State of Arizona may withhold
20 information related to the location of archaeological discoveries pursuant to A.R.S. 41-841 and
21 39-125, or places or objects included in or may qualify for inclusion in the Arizona Register of
22 Historic Places pursuant to A.R.S. § 41-511.04, subsection A, paragraph 9.

23 Pursuant to this stipulation, the signatories and concurring parties agree to appropriately
24 safeguard and control the distribution of any confidential information they may receive as a
25 result of their participation in this Agreement. Such safeguarded information is exempt from
26 disclosure under the Freedom of Information Act (5 USC 552) as provided by Section 304 of the
27 NHPA and Section 9(a) of the Archaeological Resources Protection Act.

28 **7. Amendments**

29 In accordance with 36 CFR 800.6(c)(7), if any signatory or invited signatory determines that the
30 terms of this Agreement will not or cannot be carried out or that an amendment to its terms is
31 needed, that party shall immediately notify FHWA and request an amendment. A draft of the
32 proposed amendment shall be submitted with the request. The signatories and invited
33 signatories to this Agreement will consult to review and consider such an amendment. The
34 amendment will be effective on the date a copy is signed by all signatories and invited
35 signatories. FHWA shall file any amendments with the ACHP and provide copies of the
36 amendments to the concurring parties for review and input.

37 **8. Dispute Resolution**

38 Should any party to this Agreement object, within 30 days, to any action, plan or report provided
39 for review, FHWA shall consult with the objecting party to resolve the objection. The objection
40 and reasons for the objection must be specifically documented in writing. If the objection cannot
41 be resolved, FHWA shall notify the SHPO of the objection and shall:

- 42 a. Forward all documentation relevant to the dispute to the ACHP in accordance with 36
43 CFR 800.2(b)(2). Any comment provided by the ACHP, and all comments from the

1 consulting parties to this Agreement, will be taken into account by FHWA in reaching a
2 final decision regarding the dispute.

- 3 b. If the ACHP does not provide any comments regarding the dispute within 30 days after
4 receipt of adequate documentation, FHWA may render a decision regarding the dispute.
5 In reaching its decision, FHWA will take into account all written comments regarding the
6 dispute from the consulting parties to the Agreement.
- 7 c. FHWA will notify all consulting parties of its decision in writing before implementing that
8 portion of the Undertaking subject to dispute under this stipulation. FHWA's decision will
9 be a final agency decision.
- 10 d. It is the responsibility of FHWA to carry out all other actions subject to the terms of this
11 Agreement that are not the subject of the dispute.

12 **9. Termination**

- 13 a. If any signatory determines that it wants to terminate this Agreement, the signatory shall
14 provide a thirty (30) day notification to the other signatories in writing to explain the
15 reasons for proposing termination, and consult with the other parties to seek an
16 amendment to the Agreement.
- 17 b. Termination of the Agreement by a Signatory Tribe or federal or state land managing
18 agency shall only apply to the lands under their respective jurisdiction. In such case,
19 FHWA shall comply with 36 CFR 800(B), for all undertakings on or affecting lands within
20 the terminating Signatory Tribe's Tribal lands, or the terminating agency's lands within
21 the scope of this Agreement.
- 22 c. Should FHWA, ACHP, SHPO, or ADOT terminate this Agreement, individually or
23 collectively, the Agreement will be terminated in its entirety, and, FHWA will comply with
24 36 CFR 800(B).

25 **10. Agreement Review**

26 FHWA will prepare annual reports summarizing activities conducted pursuant to this Agreement
27 and distribute the annual reports to participants of this Agreement. Any signatory or invited
28 signatory to this Agreement may request a meeting of consulting parties to review the
29 effectiveness and application of this Agreement.

30 **11. Duration of Agreement**

31 This Agreement shall be null and void if its terms are not carried out by the end of 2040, unless
32 the signatories agree in writing to an extension for carrying out its terms.

33 Execution of this Agreement by FHWA, ACHP, SHPO, and ADOT and its subsequent filing with
34 the ACHP is evidence that FHWA has afforded the ACHP an opportunity to comment on the
35 Undertaking and its effects on historic properties, and that FHWA has taken into account the
36 effects of the Undertaking on historic properties.

37 ◇ ◇ ◇ ◇

38

39

1 **SIGNATORIES**

2

3 Federal Highway Administration

4

5

6 Signature: _____ Date: _____

7

8 Printed Name: _____ Title: _____

9

10

11
12 Arizona State Historic Preservation Office

13

14

15 Signature: _____ Date: _____

16

17

18 Printed Name: _____ Title: _____

19

20

21

22 Advisory Council on Historic Preservation

23

24

25 Signature: _____ Date: _____

26

27

28 Printed Name: _____ Title: _____

29

30

31 Arizona Department of Transportation

32

33

34 Signature: _____ Date: _____

35

36

37 Printed Name: _____ Title: _____

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **INVITED SIGNATORY**

2

3 Tohono O'Odham Nation

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Arizona State Museum

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Ak-Chin Indian Community

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Archaeology Southwest

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Arizona Public Service

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Arizona Air National Guard

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Arizona Game and Fish Department

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Arizona State Land Department

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3
4
5
6
7
8

Arizona State Parks and Trails

Signature: _____ Date: _____

Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3 BNSF Railroad Company

4
5
6 Signature: _____ Date: _____

7
8
9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Buckeye Water Conservation and Drainage District

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3 Bureau of Indian Affairs, San Carlos Irrigation Project

4
5
6 Signature: _____ Date: _____

7
8
9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3 Bureau of Indian Affairs, Western Region

4
5
6 Signature: _____ Date: _____

7
8
9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Bureau of Land Management, Arizona State Office

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Bureau of Land Management, Hassayampa Field Office

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Bureau of Land Management, Lower Sonoran Field Office

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Bureau of Land Management, Tucson Field Office

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Bureau of Reclamation

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3 Central Arizona Irrigation and Drainage District

4
5
6 Signature: _____ Date: _____

7
8
9 Printed Name: _____ Title: _

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1
2
3
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6
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8
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10

CONCURRING PARTY

Chemehuevi Indian Tribe

Signature: _____ Date: _____

Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 City of Buckeye

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 City of Casa Grande

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 City of Eloy

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 City of Goodyear

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 City of Maricopa

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 City of Nogales

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3 City of South Tucson

4
5
6 Signature: _____ Date: _____

7
8
9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 City of Surprise

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 City of Tucson

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Colorado River Indian Tribes

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Cortaro-Marana Irrigation District

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Federal Aviation Administration, Phoenix Airports District Office

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Federal Aviation Administration, West Coast Headquarters

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Flood Control District of Maricopa County

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Fort McDowell Yavapai Nation

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3 Fort Mojave Indian Tribe

4
5
6 Signature: _____ Date: _____

7
8
9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Fort Yuma-Quechan Tribe

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Gila River Indian Community

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Havasupai Tribe

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Maricopa County Department of Transportation

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Maricopa Flood Control District

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Maricopa-Stanfield Irrigation and Drainage District

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Moapa Band of Paiute Indians

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 National Park Service, Saguaro National Park

4

5

6 Signature: _____ Date: _____

7

8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3 Pascua Yaqui Tribe

4
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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Pima County

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

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3 Pinal County

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Pueblo of Zuni

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Salt River Pima-Maricopa Indian Community

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6 Signature: _____ Date: _____

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8

9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3 Salt River Project

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3 San Juan Southern Paiute Tribe

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Santa Cruz County

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Santa Cruz County Flood Control District

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Silverbell Irrigation and Drainage District

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3 Tonto Apache Tribe

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Town of Gila Bend

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Town of Marana

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5

6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Town of Sahuarita

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3 Town of Wickenburg

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Trico Electric Cooperative

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5

6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Tucson Historic Preservation Foundation

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2
3 Union Pacific Railroad

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 U.S. Air Force, Davis-Monthan Air Force Base

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5

6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 U.S. Air Force, Luke Air Force Base

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 U.S. Army Corps of Engineers

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 U.S. Customs and Border Protection

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 U.S. Forest Service, Coronado National Forest

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Western Area Power Administration

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Yavapai-Apache Nation

4

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Yavapai County

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6 Signature: _____ Date: _____

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9 Printed Name: _____ Title: _____

DRAFT

PROGRAMMATIC AGREEMENT

REGARDING

**INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG, ARIZONA,
PROJECT NO. 999-M(161), TRACS NO. 999 SW 0 M5180 01P,
SANTA CRUZ, PIMA, PINAL, MARICOPA, AND YAVAPAI COUNTIES, ARIZONA**

1 **CONCURRING PARTY**

2

3 Yavapai-Prescott Indian Tribe

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6 Signature: _____ Date: _____

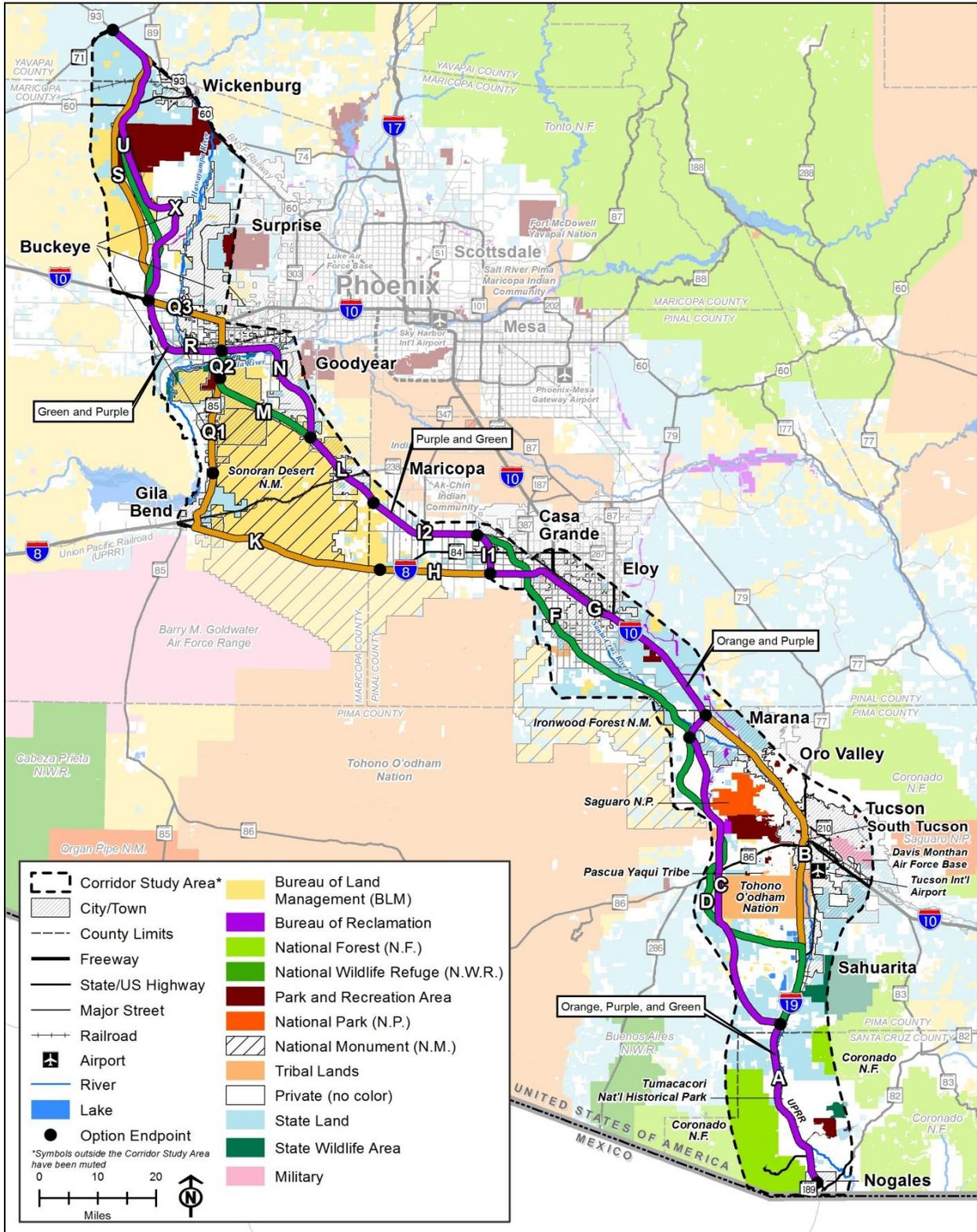
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9 Printed Name: _____ Title: _____

DRAFT

1 **INTERSTATE 11 TIER 1 EIS, NOGALES TO WICKENBURG**
 2 **Attachment A: Three I-11 Build Corridor Alternatives Assessed by the Tier 1 EIS (Purple, Green, and Orange)**
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Attachment B: Memorandum of Understanding between Federal Highway Administration, Arizona Division and the Arizona Department of Transportation, State Assumption of Responsibility for Categorical Exclusions (January 3, 2018).

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23 U.S.C. § 326 CE Assignment MOU
FHWA, Arizona Division and the Arizona Department of Transportation

MEMORANDUM OF UNDERSTANDING
between
Federal Highway Administration, Arizona
Division and the
Arizona Department of Transportation

State Assumption of Responsibility for Categorical Exclusions

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) made and entered into 3rd day of January, 2018, by and between the FEDERAL HIGHWAY ADMINISTRATION, UNITED STATES DEPARTMENT OF TRANSPORTATION (“FHWA”) and the STATE of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION (“State”), hereby provides as follows:

WITNESSETH:

Whereas, Section 326 of amended Chapter 3 of Title 23, United States Code (23 U.S.C. § 326) allows the Secretary of the United States Department of Transportation (“DOT Secretary”), to assign, and a State to assume, responsibility for determining whether certain designated activities are included within classes of action that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (“CFR”) (as in effect on October 1, 2003); and

Whereas, if a State assumes such responsibility for making categorical exclusion (“CE”) determinations under the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq. (“NEPA”), the DOT Secretary also may assign and the State may assume all or part of certain Federal responsibilities for environmental review, consultation, or other related actions required; and

Whereas, on July 7, 2015 FHWA and the State executed the *Programmatic Agreement (PCE Agreement) Regarding the Determination and Approval of Categorical Exclusion Actions for Federal –Aid Highway Projects* and intend to terminate this agreement upon the execution of this MOU; and

Whereas, on October 24, 2017, the FHWA published a notice of the availability of the proposed Section 326 MOU in the Federal Register and provided a thirty (30) day opportunity for comment in the USDOT Docket Management System FHWA-2017-0044; and

Whereas, on October 24, 2017, the State published the proposed a notice of availability of the Section 326 MOU on its website at <https://www.azdot.gov/business/environmental-planning> and provided a 30-day opportunity for comment; and

23 U.S.C. § 326 CE Assignment MOU
FHWA, Arizona Division and the Arizona Department of Transportation

Whereas, the State and the FHWA have considered the comments received; and

Whereas, the DOT Secretary, acting by and through FHWA, has determined that specific designated activities are CEs and that it will assign specific responsibilities with respect to CEs to the State in accordance with this MOU; and

Whereas, the State wishes to assume such Federal agency responsibilities in accordance with this MOU and applicable law;

Now, therefore, FHWA and the State agree as follows:

STIPULATIONS

I. CATEGORICAL EXCLUSION RESPONSIBILITIES ASSIGNED TO THE STATE BY FHWA

- A. For the projects covered by this MOU, FHWA hereby assigns, and the State hereby assumes, subject to the terms and conditions set forth in 23 U.S.C. § 326 and this MOU, the responsibility for determining whether a proposed Federal-aid action is within a category of action that has been designated as a CE by the DOT Secretary, as specified in Stipulation I(B), and meets the definition of a CE as provided in 40 CFR 1508.4 (as in effect on October 1, 2003) and 23 CFR 771.117. This assignment applies only to projects for which the Arizona Department of Transportation is the direct recipient of Federal-aid highway program funding or is the project sponsor or cosponsor for a project requiring approval by the FHWA-Arizona Division Office. This assignment does not apply to responsibilities carried out by other modal administrations of the US Department of Transportation (USDOT) or the Office of the Secretary.
- B. This assignment pertains only to the designated activities described in this Stipulation I(B).
1. The assignment includes the following:
 - a. Activities listed in 23 CFR 771.117(c);
 - b. The example activities listed in 23 CFR 771.117(d); and
 2. Any activities added through FHWA rulemaking to those listed in 23 CFR 771.117(c) or example activities listed in 23 CFR 771.117(d) after the date of the execution of this MOU.
- C. This MOU transfers to the State all responsibility for processing the CEs designated in Stipulation I(B) of this MOU, including any necessary CE approval actions. The State shall process all proposed projects that are CE candidates (CE projects), and any required reevaluations of CEs under 23 CFR 771.129 for CE projects not completed prior to the date of this MOU, in

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FHWA, Arizona Division and the Arizona Department of Transportation

accordance with the provisions of this MOU. With respect to matters covered by and subject to the terms of this MOU, this MOU supersedes any existing programmatic agreement that is solely between the State and FHWA concerning CEs in Stipulation I(B).

- D. The State, when acting pursuant to 23 U.S.C. § 326 and this MOU, holds assigned authority to make environmental decisions and commitments pertaining to only the individual proposed projects and activities within the scope of 23 U.S.C. § 326 and this MOU. No action by the State shall bind FHWA to future action of any kind. No determination or agreement made by the State with respect to mitigation or other activities shall constitute a precedent for future determinations, agreements, or actions in the Federal-aid highway program unless FHWA consents, in writing, to such commitment.
- E. Prior to approving any CE determination the State shall ensure and document that for any proposed project the design concept, scope, and funding are consistent with the current State Transportation Improvement Program (STIP), Transportation Improvement Program (TIP), and Regional Transportation Plan (RTP) as applicable.

II. OTHER FHWA RESPONSIBILITIES ASSIGNED TO THE STATE AND RESPONSIBILITIES RESERVED BY FHWA

- A. For projects covered by this MOU, FHWA hereby assigns, and the State hereby assumes, the following FHWA responsibilities for environmental review, consultation, or other related actions required under Federal laws and Executive Orders applicable to CE projects: See Appendix A for a description of the environmental responsibilities assigned to the State by the FHWA for proposed projects subject to this MOU. This assignment includes the transfer to the State of the obligation to fulfill the assigned environmental responsibilities associated with any proposed projects meeting the criteria in Stipulation I(B) that were determined to be CEs prior to the effective date of this MOU but the project has not been completed. Such projects are included in the term “proposed projects” in this MOU.
- B. The FHWA reserves any responsibility for any environmental review, consultation, or other related action that is not expressly assigned under this MOU, including:
 - 1. All government-to-government consultation with Indian tribes as defined in 36 CFR 800.16(m). Notice from the State to an Indian tribe advising the Indian tribe of a proposed activity is not considered “government-to-government consultation” within the meaning of this MOU. If the State adequately resolves any project-specific Indian tribe issues or concerns, then FHWA’s role in the environmental process shall be limited to carrying out the government-to-government consultation process. FHWA, according to the terms of this MOU, shall initiate government-to-government

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FHWA, Arizona Division and the Arizona Department of Transportation

consultation for an assigned project with any Indian tribe who directly contacts FHWA (via written or oral communication) to make such a request and identifies one or more highway projects in that request. If FHWA determines through consultation with an Indian tribe, or an Indian tribe indicates to FHWA, that the proposed resolution of tribal issues or concerns by the State is not adequate, then Stipulation III(C) applies. This MOU is not intended to abrogate, or prevent future entry into, any written agreement among the State, FHWA, and an Indian tribe under which the tribe agrees to permit the State to administer government-to-government consultation activities for FHWA. However, such agreements are administrative in nature and do not relieve FHWA of its legal responsibility for government-to-government consultation.

2. Review and approval of individual section 4(f) evaluations until such time ADOT staff complete Section 4(f) and legal sufficiency training. When such training has been completed, FHWA shall notify ADOT that the responsibility for review and approval of individual Section 4(f) evaluations is assigned. This modification shall not be deemed an amendment under Stipulation VIII.
- C. The State and FHWA will develop and document procedures for carrying out FHWA responsibilities retained by FHWA under Stipulation II(B), including how any FHWA decisions will be communicated to the State for inclusion in the State's decision-making under Stipulations I and II(A). The procedures will ensure that:
1. The State provides to FHWA any information necessary in order for FHWA to carry out its consultation, evaluation, or decision-making for Stipulation II(B) activities;
 2. The FHWA provides the State with a documented decision and any related information used for Stipulation II(B) decisions and needed by the State in order for the State to evaluate the project and make its decision whether the project qualifies as a CE; and
 3. As part of any request for FHWA authorization for funding or other action, the State will provide to FHWA evidence that the CE processing and any other environmental responsibilities assigned under this agreement have been completed in accordance with this MOU. This evidence demonstrates that (1) all NEPA review and compliance requirements have been met, (2) that the CE determination remains valid, and (3) that the scope of work of the project has not changed and that the project incorporates all environmental commitments, 23 CFR 771.109(d).
- D. The State agrees that its execution of environmental review, reevaluation, consultation, and other related responsibilities for CEs assigned under this MOU are subject to the same existing and future procedural and substantive

23 U.S.C. § 326 CE Assignment MOU
FHWA, Arizona Division and the Arizona Department of Transportation

requirements as if those responsibilities were carried out by FHWA. This includes, but is not limited to the responsibilities of FHWA under interagency agreements such as programmatic agreements, memoranda of understanding, memoranda of agreement, and other similar documents that relate to the environmental review process for CE projects. If such interagency agreements are between the State and FHWA only, then the assignment occurs automatically upon the signing of this MOU for projects covered by this MOU. If the interagency agreement involves signatories other than FHWA and the State, then, within six months after the effective date of this MOU, FHWA and the State will work to obtain any necessary consents or amendments (see Appendix B). Such actions include:

1. Consulting with the other parties to obtain written consent to the continuation of the interagency agreement in its existing form, but with the substitution through assignment of the State for FHWA with respect to interagency agreement provisions applicable to CE projects;
 2. Negotiating with the other parties to amend the interagency agreement as needed so that the interagency agreement continues but that the State assumes FHWA's responsibilities with respect to CE projects.
 3. If a third party does not agree to the assignment or amendment of the interagency agreement, then to the extent permitted by applicable law and regulation, the State must carry out the assigned environmental review, consultation, or other related activity in accordance with applicable laws and regulations but without the benefit of the provisions of the interagency agreement.
- E. The State shall carry out the assigned consultation, review and coordination activities in a timely and proactive manner. The State shall make all reasonable and good faith efforts to identify and resolve conflicts with Federal agencies, State and local agencies, Indian tribes as defined in 36 CFR 800.16(m), and the public during the consultation and review process.

III. ACTIONS, CONDITIONS, OR DETERMINATIONS THAT EXCLUDE DESIGNATED ACTIVITIES FROM ASSIGNMENT OF RESPONSIBILITIES

- A. Notwithstanding any other provision of this MOU, any activity that does not satisfy the criteria for the CE categories described in Stipulation I(B) is **excluded** from this assignment. Exclusion also may occur at any time during the environmental process if the State determines that the project fails to meet the CE criteria. The provisions of Stipulation IV(C) apply to such cases. These determinations are subject to FHWA review.
- B. Because the State assumes responsibility for environmental processing of the CEs designated in this MOU, FHWA no longer will be responsible for

23 U.S.C. § 326 CE Assignment MOU
FHWA, Arizona Division and the Arizona Department of Transportation

conducting the environmental review, consultation or other related actions assigned under this MOU (see Stipulation XI). However, in furtherance of its stewardship and oversight responsibilities, FHWA will evaluate the State's environmental processing of any project if FHWA has any reason to believe that the State's performance with respect to the project does not satisfy the terms and conditions of this MOU. The scope of the evaluation will be commensurate with the potential problem. If FHWA subsequently determines that the State's performance does not satisfy the terms and conditions of this MOU, then FHWA will take action to resolve the problem. Such action may include action to facilitate the State's compliance with the MOU, or action to exclude the project from assignment under this MOU. The provisions of Stipulation X(A)-X(E) apply to such FHWA-initiated exclusion.

- C. If a project-related concern or issue is raised in the coordination of project review with an Indian tribe, as defined in 36 CFR 800.16(m), and either the Indian tribe or FHWA determines that the issue or concern will not be satisfactorily resolved by the State, then FHWA may reassume responsibility for processing the project or an individual responsibility assumed by the State. The FHWA shall notify the State that the project will be excluded from this MOU. The provisions of Stipulation X(A)-X(E) apply to such FHWA-initiated exclusion.

IV. STATE PERFORMANCE REQUIREMENTS

- A. Compliance with governing laws, regulations and MOU. The State shall make all determinations under this MOU in accordance with 23 CFR 771.117(a) and (b) and succeeding regulations. All actions by the State in carrying out its responsibilities under this MOU shall comply with, and be consistent with, the coordination provisions of Stipulation II and all applicable Federal laws, regulations, Executive Orders, policies, and formal guidance. The State also shall comply with State and local laws to the extent applicable.
1. Failure to meet the requirements of Stipulation IV(A) is grounds for a decision by FHWA to terminate this MOU pursuant to Stipulation IX(A) if FHWA determines, after good-faith consultation with the State, that there is an irreconcilable material conflict between a provision of State law, regulation, policy, or guidance and applicable Federal law, regulation, policy, or guidance, and FHWA reasonably determines that such conflict is preventing the State from meeting its Stipulation IV(A) obligations. The grounds for such decision may include, but are not limited to, the mere existence of the conflict (i.e., on its face) and/or the effect of the conflict on the State's decision(s) on proposed CE project(s) (i.e., as applied).
 2. Official DOT and FHWA formal guidance and policies relating to environmental review matters are posted online at FHWA's website or sent to the State electronically or in hard copy.
 3. After the effective date of this MOU, the FHWA will use its best efforts to

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ensure that any new or revised FHWA policies and guidance that are final and applicable to the State's performance under this MOU are communicated to the State within ten (10) calendar days of issuance. Delivery may be accomplished by e-mail, mail, by publication in the *Federal Register*, or by means of a publicly available online posting including at the sites noted above. If communicated to the State by e-mail or mail, such material may be sent either to the party specified in this MOU to receive notices, or to the Arizona Department of Transportation Environmental Planning Administrator.

4. In the event that a new or revised FHWA policy or guidance is not made available to the State as described in the preceding paragraph, and if the State had no actual knowledge of such policy or guidance, then a failure by the State to comply with such Federal policy or guidance will not be a basis for termination under this MOU.
5. The State will work with all other appropriate Federal agencies concerning the laws, guidance, and policies relating to any Federal laws that such other agencies administer.
6. In order to minimize the likelihood of a conflict as described in Stipulation IV(A)(1) above, after the effective date of this MOU the State will use its best efforts to ensure that any proposed new or revised State laws, regulations, policies, or guidance that are applicable to the State's performance under this MOU are communicated to FHWA for review and comment before they become final. Delivery may be accomplished by e-mail, mail, or personal delivery. If communicated to FHWA by e-mail or mail, such material may be sent to the party specified in this MOU to receive notices for FHWA.

B. Processing projects assigned under the MOU: State identification, documentation, and review of effects. For projects and other activities assigned under Stipulations I(A)-(B) that the State determines are included in the classes of CE assigned to the State under this MOU, the State shall:

1. Institute and maintain the process to identify and review the environmental effects of the proposed project.
2. Carry out the other environmental responsibilities that are assigned under this MOU, as necessary or appropriate for the activity;
3. Document in the project file the CE findings and completion of all applicable FHWA responsibilities assigned under Stipulations I and II;
4. For CE's other than those designated in 23 CFR 771.117(c), carry out a review of proposed CE determinations, including consideration of the environmental analysis and project file documentation, prior to the States'

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approval of the CE determination. The process shall include, at a minimum, review of the documentation and proposed determination by a competent reviewer who is not a preparer of the CE documentation.

5. Document its approval of the determination using, at a minimum, the printed name, title, and date of the State official approving the determination;
6. Include the following determination statement when documenting the CE findings:

“The State has determined that this project has no significant impact(s) on the environment and that there are no unusual circumstances as described in 23 CFR 771.117(b). As such, the project is categorically excluded from the requirements to prepare an environmental assessment or environmental impact statement under NEPA. The State has been assigned, and hereby certifies that it has carried out, the responsibility to make this determination pursuant to 23 U.S.C. § 326 and a Memorandum of Understanding dated January 3, 2018, executed between FHWA and the State.”

7. Document in the project file the specific categorically excluded activity, the CE finding, including the determination that the project has no significant impact(s) on the environment, there are no unusual circumstances (23 CFR 771.117(b)), and completion of all applicable FHWA responsibilities assigned under Stipulations I and II.

C. Excluded projects and CE activities not assigned: determination and documentation. For projects that are candidates for CE classification but that the State determines should be excluded from processing under this assignment, the State shall:

1. Document the exclusion findings in the project file, including the reason for the finding;
2. Notify FHWA; and
3. Work with the FHWA, now as the responsible party under NEPA, and proceed with review and documentation of the project under the appropriate NEPA procedures.

D. Required State resources, qualifications, expertise, standards, and training. The State must maintain adequate organizational and staff capability and expertise to effectively carry out the responsibilities assigned to it under this MOU. This includes, without limitation:

1. Using appropriate technical and managerial expertise to perform the functions required under this MOU and applicable laws, regulations,

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policy, and guidance;

- a. Devoting adequate financial and staff resources to carry out the responsibilities assumed by the State; and
 - b. Demonstrating, in a consistent manner, the capacity to perform the State's responsibilities under the MOU and applicable Federal law.
2. The State agrees that it shall maintain on its staff or through consultant services all of the environmental and other technical expertise needed to carry out its responsibilities under this MOU and 23 U.S.C. § 326. Without limiting the foregoing, when carrying out the requirements of Section 106 of the National Historic Preservation Act, as amended, the State shall comply with 36 CFR 800.2(a)(1). All actions that involve the identification, evaluation, analysis, recording, treatment, monitoring, or disposition of historic properties, or that involve the reporting or documentation of such actions in the form of reports, forms, or other records, shall be carried out by or under the direct supervision of a person or persons who meet the Secretary of the Interior's Professional Qualifications Standards (published at 48 FR 44738-44739). The State shall ensure that all documentation required under 36 CFR 800.11 is reviewed and approved by a staff member or consultant who meets the Professional Qualifications Standards.

E. State quality control.

1. The State agrees to carry out regular quality control activities to ensure that its CE determinations are made in accordance with applicable law and this MOU.
2. At a minimum, the State shall monitor its processes relating to project determinations, environmental analysis, and project file documentation, and check for errors and omissions. The State shall take corrective action as needed. The State shall document its quality control activities and any needed corrective actions taken.
3. If the State implements training to meet the capability requirements of this MOU or as a corrective action, the State shall be responsible for the training. The State shall provide notice of formal training to FHWA.

F. MOU performance monitoring and quality assurance. The FHWA and the State shall cooperate in monitoring performance under this MOU and each party shall modify its practices as needed to assure quality performance by the State and FHWA. Monitoring will include consideration of the technical competency and organizational capacity of the State, as well as the State's performance of its CE processing functions. Performance considerations will include, without limitation, the quality and consistency of the State's project determinations,

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adequacy and capability of the resources applied by the State, and the quality and consistency of the State's administration of its responsibilities under this MOU. In support of the monitoring efforts:

1. The State shall submit to FHWA a list of the CE determinations and Section 4(f) determinations that the State approved during the previous 6 months (January 1 through June 30, and July 1 through December 31), within 15 business days after the end of each semi-annual reporting period. Reduction in reporting frequency, and any revocation of such reduction by FHWA, shall not be deemed an amendment under Stipulation VIII.
2. State shall submit to the FHWA (via electronic copy) a self-assessment report summarizing its performance under this MOU at least 30 days prior to a scheduled monitoring review by FHWA. The report will identify any areas where improvement is needed and what measures the State is taking to implement those improvements. The report will include actions taken by the State as part of its quality control efforts under stipulation IV(E). Following submission of the report to the FHWA (electronic or in hard copy). The State shall schedule a follow-up meeting with FHWA at which the parties will discuss the report, the State's performance of this MOU, and the FHWA's monitoring activities.
3. The State shall maintain electronic project records and general administrative records pertaining to its MOU responsibilities and the projects processed hereunder. The records shall be available for inspection by the FHWA at any time during normal business hours. The State shall provide the FHWA with electronic copies of any documents the FHWA may request within five business days. The State shall retain those records, including all letters and comments received from governmental agencies, the public, and others about the performance of activities assigned under this MOU, for a period of no less than three (3) years after completion of project construction. This 3-year retention provision does not relieve the State of its project or program recordkeeping responsibilities under 2 CFR 200.300 or any other applicable laws, regulations, or policies.
4. The State shall ensure that project records are available to the public consistent with requirements applicable to Federal agencies under 5 U.S.C. § 552 (the Freedom of Information Act (FOIA), as amended in 2002) and NEPA.
5. The FHWA periodically shall review the State's records and may interview State staff to evaluate the State's performance under this MOU. FHWA shall conduct one review within 6 months of the execution of this agreement, and may be coordinated with the review of the State's report under Stipulation IV(F)(2). The FHWA anticipates that under normal circumstances, its evaluation of the State's performance will be based on a modified version of a typical FHWA CE process review (to view FHWA guidance on how

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monitoring should occur visit

<http://www.fhwa.dot.gov/hep/6004stateassumpt.htm>). Modifications to the CE process review will include incorporation of measures specific to the responsibilities assigned to the State pursuant to 23 U.S.C. §326, and will include performance measurements of compliance and timeliness. However, the FHWA reserves the right to determine in its sole discretion the frequency, scope, and procedures used for monitoring activities. The State, by its execution of this MOU acknowledges that it is familiar with the FHWA CE Process Review procedures and with the expected modifications that will be adopted for the purpose of monitoring the State's MOU performance.

6. Nothing in this Stipulation shall prevent FHWA from undertaking other monitoring actions, including audits, with respect to the State's performance of the MOU. The FHWA, in its sole discretion, may require the State to perform such other quality assurance activities, including other types of monitoring, as may be reasonably required to ensure compliance with this MOU, 23 U.S.C. § 326, and other applicable Federal laws and regulations. Such requirement shall not be deemed an amendment under Stipulation VIII.
 7. The State agrees to cooperate with FHWA in all quality assurance activities.
- G. State liability. The State agrees that it is solely responsible and solely liable for complying with and carrying out this MOU, for the performance of all assigned responsibilities as provided by applicable law and for any decisions, actions, or approvals by the State, per 23 U.S.C. § 326(b)(2). The FHWA shall have no responsibility or liability for the performance of responsibilities assigned to the State, including without limitation any decision or approval made by the State. Where the State exercises any assigned authority on a proposed project which FHWA determined to be a CE prior to the execution of this MOU, the State assumes sole environmental review responsibility and liability for any subsequent substantive environmental review action it takes on that project.
- H. Litigation.
1. Nothing in this MOU affects the United States Department of Justice's (hereinafter "USDOJ") authority to litigate claims, including the authority to approve a settlement on behalf of the United States if either FHWA or another agency of the United States is named in such litigation, or if the United States intervenes. In the event FHWA or any other Federal agency is named in litigation related to matters under this MOU, or the United States intervenes in the litigation, the State agrees to coordinate with FHWA and any USDOJ or Federal agency attorneys in the defense of that action.
 2. The State shall defend all claims brought against the State in connection with its discharge of any responsibility assumed under this MOU. In the event of litigation, the State shall provide qualified and competent legal counsel, including outside counsel if necessary. The State shall provide the defense at

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its own expense, subject to 23 U.S.C. 326(f) concerning Federal-aid participation in attorney's fees for outside counsel hired by the State. The State shall be responsible for opposing party's attorney's fees and court costs if a court awards those costs to an opposing party, or in the event those costs are part of a settlement agreement.

3. The State will notify the FHWA's Arizona Division Office and USDOJ's Assistant Attorney General for the Environment and Natural Resources Division, within seven (7) calendar days of the State's Legal Division's receipt of service of process of any complaint, concerning discharge of any responsibility assumed under this MOU. The State's notification to the FHWA and USDOJ shall be made prior to its response to the complaint. In addition, the State shall notify FHWA's Arizona Division Office within seven (7) calendar days of receipt of any notice of intent to sue concerning its discharge of any responsibility assumed under this MOU.
4. The State will provide FHWA's Arizona Division Office and USDOJ copies of any motions, pleadings briefs, or other such documents filed in any case concerning its discharge of any responsibility assumed under this MOU. The State will provide such copies to the FHWA and DOJ within seven (7) calendar days of service of any document, or in the case of any documents filed by or on behalf of the State, within seven (7) calendar days of the date of filing.
5. The State will notify the FHWA's Arizona Division Office and USDOJ prior to settling any lawsuit, in whole or in part, and shall provide the FHWA and USDOJ with a reasonable amount of time of at least ten (10) calendar days, to be extended, if feasible based on the context of the lawsuit, up to a maximum of thirty (30) total calendar days, to review and comment on the proposed settlement. The State will not execute any settlement agreement until: (1) FHWA and USDOJ have provided comments on the proposed settlement; (2) FHWA and USDOJ have indicated that they will not provide comments on the proposed settlement; or (3) the review period has expired, whichever occurs first.
6. Within seven (7) calendar days of receipt by the State, the State will provide notice to FHWA's Arizona Division Office and USDOJ of any court decision on the merits, judgment, and notice of appeal arising out of or relating to the responsibilities the State has assumed under this MOU. The State shall notify FHWA's Arizona Division Office and USDOJ within five (5) days of filing a notice of appeal of a court decision. The State shall confer with FHWA and USDOJ regarding the appeal at least forty-five (45) calendar days before filing an appeal brief in the case.
7. The State hereby consents to intervention by FHWA in any action or proceeding arising out of, or relating to, the State's discharge of any responsibility assigned to the State under this MOU.

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8. The State's notification to FHWA and USDOJ in subparts IV(H)(3)-(6) shall be made by electronic mail to FHWA_assignment_lit@dot.gov and NRS DOT.enrd@doj.gov, unless otherwise specified by FHWA and USDOJ. For copies of motions, pleadings, briefs, and other documents filed in a case, as identified in subpart IV(H)(4), the State may opt to either send the materials to the email addresses identified above, send hardcopies to the mail address below, or add to the distribution list in the court's electronic filing system (e.g., PACER) the following two email addresses: FHWA_assignment_lit@dot.gov and efile_nrs.enrd@usdoj.gov. FHWA and USDOJ's comments under subparts IV(H)(5)-(6) shall be made by electronic mail to FHWA.Arizona@dot.gov unless otherwise specified by the State. In the event that regular mail is determined necessary, mail should be sent by overnight mail service to:

For USDOJ: Assistant Attorney General for the Environment and Natural Resources Division at 950 Pennsylvania Avenue, NW, Room 2143, Washington, DC 20530.

For FHWA: Division Administrator, FHWA Arizona Division, 4000 N. Central Avenue, Suite 1500, Phoenix, Arizona 85012-3500

For ADOT: Environmental Planning Administrator, Arizona Department of Transportation, 1611 W. Jackson St., MD EM02, Phoenix, AZ 85007

- I. Federal Register. While the MOU is in effect, if any CE project or program documents are required to be published in the *Federal Register*, such as a notice of final agency action under 23 U.S.C. § 139(l), the State shall transmit such document to the FHWA's Division Office and the FHWA will publish such document in the *Federal Register* on behalf of the State. The State is responsible for the expenses associated with the publishing of such documents in the *Federal Register*, in accordance with guidance issued by the FHWA.
- J. Participation in Resource Agency Reports. The State agrees to provide data and information requested by the FHWA Office of Project Development and Environmental Review and resource agencies, with a cc to the FHWA Arizona Division, for the preparation of national reports to the extent that the information relates to determinations, findings, and proceedings associated with projects processed under this MOU. Such reports include but are not limited to:
1. Archeology Report requested by the National Park Service;
 2. Endangered Species Act Expenditure Reports requested by the United States Fish and Wildlife Service and the National Marine Fisheries Service;
 3. NEPA Litigation Reports requested by the Council on Environmental Quality; and

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4. Environmental Conflict Resolution reports requested by the Council on Environmental Quality.

V. STATE CERTIFICATIONS AND ACCEPTANCE OF JURISDICTION

- A. The State hereby certifies that it has the necessary legal authority and the capacity to:
 1. Accept the assignment under this MOU;
 2. Carry out all of the responsibilities assigned to the State; and
 3. Agree to and perform all terms and conditions of the assignment as contained in this MOU and in 23 U.S.C. § 326.
- B. The State consents to and accepts the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the USDOT Secretary that the State assumes under this MOU and 23 U.S.C. § 326. The State understands and agrees that this consent constitutes a waiver of the State's immunity under the Eleventh Amendment to the U.S. Constitution for the limited purposes of addressing the compliance, discharge, and enforcement of matters arising out of this MOU and carrying out the USDOT Secretary's responsibilities that that State assumes pursuant to this MOU and 23 U.S.C. § 326. This consent to Federal court jurisdiction shall remain valid after termination of the MOU, or re-assumption of the USDOT Secretary's responsibilities by the FHWA, for any act or omission by the State relating to its compliance, discharge, or enforcement of any responsibility under this MOU or 23 U.S.C. § 326. A valid, binding, and sufficient waiver of the State's sovereign immunity must be in effect at all times that the State acts under the authority of this MOU.

As provided by Arizona Revised Statutes (A.R.S.) § 28-334, Arizona waives its immunity under the Eleventh Amendment of the U.S. Constitution. If this waiver is withdrawn, then the State's authority to participate in this MOU will end and this MOU will terminate automatically subject to applicable survival and transitional provisions of this MOU.
- C. In accordance with 23 U.S.C. § 326(e), the State agrees that it shall be deemed to be a Federal agency for the purposes of the Federal law(s) under which the State exercises any responsibilities pursuant to this MOU and 23 U.S.C. § 326.
- D. The State may not assign or delegate its rights or responsibilities under this MOU to any other agency, political subdivision, or entity, or to any private individual or entity. Without limiting the foregoing, the State understands and agrees that it must retain the environmental decision-making responsibilities assigned to it under this MOU and may not assign or delegate such decision-

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making responsibilities to consultants or others.

- E. With respect to the public availability of any document or record under the terms of this MOU or the State's open records law, A.R.S. § 39-101 et seq., the State certifies that the laws of the State provide that any decision regarding the release or public availability of a document or record may be legally challenged or reviewed in the courts of the State.
- F. The State certifies that the persons signing this MOU and providing certifications are duly authorized to do so and have the legal authority to:
 - 1. Enter into this MOU on behalf of the State;
 - 2. Make the certifications set forth in this MOU; and
 - 3. Bind the State to the terms and conditions contained in this MOU.
- G. The State further certifies that, in enacting the Arizona Revised Statutes, Chapter 2, Article 2, Section 28-334, the State has waived the State's Eleventh Amendment rights and consented to Federal court jurisdiction with regard to the compliance, discharge and enforcement of any responsibility of the USDOT Secretary that the State assumes under this MOU and 23 U.S.C 326.
- H. The State's Attorney General, by issuing an opinion letter that is addressed to the FHWA Administrator and attached to this MOU, has made the requisite certifications as the State's Chief Legal Officer. A copy of the opinion letter is attached to this MOU as Appendix C.

VI. PUBLIC NOTICE AND COMMENT

- A. The execution of this MOU, and of any amendment or renewal, requires prior public notice and an opportunity for comment.
- B. The State shall publish notice of the availability of this MOU, and any proposed amendment or renewal, for public review and comment and information regarding access to the USDOT Docket Management System on its website.
- C. The FHWA Arizona Division Office shall publish in the Federal Register a notice of availability of this MOU and any proposed amendment or renewal of this MOU, for public review and a thirty (30) calendar day comment period. This notice will expressly request comments on any types of activities proposed for assignment under Stipulation I(B), will include a statement of the public availability of supporting documentation for any assignment under Stipulation I(B), and advise the public about how to learn about FHWA's final decision on the proposed MOU, including how to obtain a copy of any resulting final MOU. The FHWA will establish a docket in the USDOT Docket Management System

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to receive comments.

- D. The State and the FHWA shall consider comments provided by the respondents to the public notices before finalizing the MOU, or any proposed amendment or renewal agreement. Upon completion of the decision-making process, the FHWA shall publish a notice in the *Federal Register* that announces the agency's decision and the execution of the MOU. The notice also will inform the public of the availability in the USDOT Docket Management System of a brief summary of the results of the decision-making process and a copy of any final MOU executed by the State and the FHWA, whether initial, amended, or renewed. The notice also will advise where the final MOU is available on the State's website.
- E. The State agrees that at all times that this MOU is in effect, the State will post on its website (<https://www.azdot.gov/business/environmental-planning>) a notice of the availability to the public, upon request, of copies of the State's biannual reports of CE determinations prepared pursuant to Stipulation IV(F)(1), the State's performance reports prepared pursuant to Stipulation IV(F)(2), and the FHWA performance monitoring reports prepared pursuant to Stipulation IV(F)(5). The FHWA will arrange for the posting of a similar notice on the FHWA's website or create a link from the FHWA's site to the State's site.

VII. INITIAL TERM AND RENEWAL

- A. This MOU shall have a term of three (3) years, beginning on the date of the last signature.
- B. This MOU is renewable for additional terms of three (3) years each if the State requests renewal and the FHWA determines that the State has satisfactorily carried out the provisions of this MOU. In considering any renewal of this MOU, the FHWA will evaluate the effectiveness of the MOU and its overall impact on the environmental review process. The FHWA may decide not to renew the MOU if the FHWA determines that the operation of the MOU has substantial adverse effects on the environmental review process. Such evaluation may include consideration of any effects from the assumption by the State of only some, but less than all, of the FHWA's environmental review, consultation, or other related responsibilities as listed in Stipulation II.
- C. At least six (6) months prior to the end of the initial term and of any renewed term of this MOU, the State and the FHWA shall meet to discuss the results of the monitoring and consider any amendments to this MOU. This meeting may be combined with a meeting to discuss performance under the monitoring provisions in Stipulation IV(F)(2) and (F)(5) of this MOU.
- D. If the parties do not renew the MOU, then it shall expire at the end of the term then in effect. The provisions of Stipulation X(A)(4), and X(C)-(E) shall apply.

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VIII. AMENDMENTS

- A. Any party to this MOU may request that it be amended, or administratively modified to reflect non-substantive changes, whereupon the parties shall consult to consider such an amendment. Public notice and comment is not required for the parties to agree to a technical non-substantive change.
- B. If, after the required public notice and comment, the parties agree to amend the MOU, then the FHWA and the State may execute an amendment with new signatures and dates of the signatures. The term of the MOU shall remain unchanged unless otherwise expressly stated in the amended MOU. Any amendment that extends the term of the MOU shall be treated as a renewal and the FHWA must make the determinations required for a renewal under Stipulation VII.

IX. TERMINATION

A. Termination by the FHWA

- 1. As provided at 23 U.S.C. 326(d)(1), FHWA may terminate the State's participation in the Program, in whole or in part, at any time subject to the procedural requirements in 23 U.S.C. 326 and subpart IX(A)(2) below, if:
 - a. FHWA determines that the State is not adequately carrying out the responsibilities assigned to the State under this MOU;
 - b. FHWA provides to the State a written notification of its determination;
 - c. FHWA provides the State a period of at least one-hundred twenty (120) calendar days to take corrective action to comply with this MOU;
 - d. If requested by the Governor of the State, FHWA provides a detailed description of each responsibility in need of corrective action regarding any inadequacy identified by FHWA; and
 - e. After the notification and after the expiration of the 120-day period provided under this provision, the State fails to take satisfactory corrective action as determined by FHWA.
- 2. Failure to adequately carry out the responsibilities may include, but not be limited to:
 - a. Persistent neglect of, or noncompliance with, any Federal laws, regulations, and policies;
 - b. Failure to cooperate with FHWA in conducting an audit or any oversight or monitoring activity;

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- c. Failure to secure or maintain adequate personnel and financial resources to carry out the responsibilities assumed;
 - d. Substantial noncompliance with this MOU; or
 - e. Persistent failure to adequately consult, coordinate, and/or take the concerns of other Federal agencies, as well as SHPOs/THPOs, into account in carrying out the responsibilities assumed.
3. If FHWA terminates one or more of the State's responsibilities under this MOU in accordance with 23 U.S.C. 326, FHWA shall provide written notice of that termination to the State, and such notice that specify the date on which the termination becomes effective. Upon that effective date, any responsibilities identified to be terminated in the notice that have been assumed by the State of this MOU will transfer to FHWA.

B. Termination by the State

1. The State may terminate its participation in the Program, in whole or in part, at any time by providing to FHWA a notice at least ninety (90) calendar days prior to the date that the State seeks to terminate its participation in this Program, and subject to such terms and conditions as FHWA may provide.
2. The Arizona Legislature and Governor may, at any time, terminate the State's authority granted to participate in this Program. In the event, FHWA and the State will develop a plan to transition the responsibilities that the State has assumed back to FHWA so as to minimize disruption to projects, minimize confusion to the public, and minimize burdens to other affected Federal, State, and local agencies. The plan will be approved by both FHWA and the State.
3. Any such withdrawal of assignment which FHWA and the State have agreed to under a transition plan will not be subject to the procedures or limitations provided for in subpart IX of this MOU and will be valid as agreed to in the transition plan.

C. Validity of the State Actions

1. Any environmental approvals made by the State pursuant to the responsibilities the State has assumed under this MOU will remain valid after termination of the State's participation in the MOU or withdrawal of assignment by FHWA. As among the USDOT Secretary, FHWA and the State, the State will remain solely liable and solely responsible for any environmental approvals it makes pursuant to any of the responsibilities it has assumed while participating in the Program.

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X. PROCEDURES FOR TERMINATION AND FHWA-INITIATED PROJECT EXCLUSIONS

- A. Except as provided in Stipulation X(B) below, the process for termination under Stipulation IX(A)-IX(B), and for exclusion of a project from the MOU assignment by the FHWA under Stipulation III(B)-III(C), is as follows:
1. The party wishing to initiate the termination or exclusion shall provide to the other party a written notice of intent. The notice should identify the proposed action and explain the reason(s) for the proposed action.
 2. Following the notice, the parties shall have a thirty (30) calendar-day period during which the FHWA and the State shall consult on amendments or other actions that would avoid termination or exclusion. By agreement, the parties may extend this consultation period, provided that such extension may not exceed the term of the MOU.
 3. Following the consultation period, any termination or exclusion by FHWA shall be effective as of a date thirty (30) calendar days after the date of either a post-consultation agreement between the State and FHWA or the date of the State's receipt of a FHWA notice of final determination of termination or exclusion. In the event of termination initiated by the State, the termination shall be effective ninety (90) calendar days after the date of FHWA's receipt of the State's termination notice. All responsibilities covered by the termination or exclusion shall revert to the FHWA as of that effective date.
 4. In the event of termination or exclusion, the State and the FHWA agree to cooperate to make the transfer of responsibilities back to the FHWA effective in as orderly and administratively efficient manner as possible. The State will promptly provide FHWA any documents, records and other project-related material needed for FHWA to proceed with processing any affected project. Appropriate NEPA procedures, including those under any applicable programmatic CE agreement, shall apply to the subsequent processing of projects.
- B. The FHWA, in its sole discretion, may exclude a project from this MOU pursuant to Stipulation III(B)-III(C), without the thirty (30) calendar day consultation or final notice periods, if the FHWA determines that:
1. The State is not performing in accordance with this assignment; and
 2. Extreme conditions exist that justify immediate exclusion or termination and transfer back to the FHWA of the responsibilities covered by the exclusion or termination.

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3. In such cases, the FHWA shall notify the State in writing of its determination and action, and specify the reason for the action.
- C. The State's liability for its acts and omissions under this MOU, and the provisions of Stipulation V, shall survive the MOU. This survival clause includes, without limitation, the provisions of Stipulations IV (G)-IV(H) relating to liability and litigation.
- D. Exclusion actions, and any decision not to renew, do not require public notice and comment.
- E. Termination or other action by the FHWA in accordance with the provisions of this MOU does not limit or otherwise affect the FHWA's ability to seek any other remedy or to take action under other provisions of applicable law, including without limitation any appropriate remedies as provided in 23 CFR 1.36.

XI. STATE EXECUTION OF ASSIGNED RESPONSIBILITIES WITHOUT FHWA INVOLVEMENT

- A. The FHWA will not provide any project-level assistance to the State in carrying out any of the responsibilities assigned under this MOU. "Project-level assistance" includes advice, consultation, or document review with respect to the discharge of such responsibility for a particular highway project. However, "project-level assistance" does not include discussions concerning issues addressed in prior projects, legal interpretations of any applicable law contained in titles 23 or 49 of the United States Code, legal interpretations of any FHWA or USDOT regulation, or interpretations of FHWA or USDOT policies or guidance. If a need for project-level assistance is identified as a result of the government-to-government consultation process described in Stipulation II(B)(1), then the FHWA shall reassume responsibility for the project as provided in Stipulation III(C).
- B. The FHWA will not intervene, broker, act as intermediary, or be otherwise involved in any issue involving the State's consultation or coordination with another Federal, State, or local agency with respect to the State's discharge of any of the responsibilities the State has assumed under this MOU for any particular highway project. However, the FHWA holds both monitoring and quality assurance obligations under this MOU and general oversight and stewardship obligations under the Federal-aid Highway Program. In furtherance of those obligations, the FHWA may elect to attend meetings between the State and other Federal agencies. Prior to attending such meetings, the FHWA will make a reasonable and diligent effort to give the State notice.

In rare or extreme circumstances and based on its observations, the FHWA may submit comments to the State and the other Federal agency if the FHWA determines such comment is necessary and in the Federal interest because:

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1. The FHWA reasonably believes that the State is not in compliance with this MOU; or
2. The FHWA determines that an issue between the State and the other Federal agency has broad or unique policy implications for the administration of the national Federal-aid Highway Program.

XII. NOTICES

Any notice to either party may be given electronically so long as a paper original of the notice also is delivered to the party. The effective date of the notice shall be the date of delivery of the paper original. Paper notices shall be delivered as follows:

State of Arizona:

ADOT Director
Arizona Department of Transportation
206 S. 17th Ave
Mail Drop 100A
Phoenix, AZ 85007

Federal Highway Administration:

Division Administrator
4000 North Central Avenue,
Suite 1500
Phoenix, AZ 85012

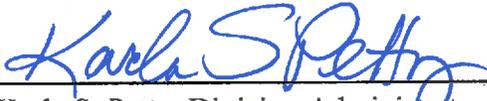
U.S. Department of Justice:

Office of the Assistant Attorney General
Environment and Natural Resources Division
950 Pennsylvania Avenue, NW
Room 2143
Washington, D.C. 20530

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Execution of this MOU and implementation of its terms by the State formally evidence that the parties have reviewed this MOU and determined that it complies with the laws, regulations and policies applicable to the FHWA and the State. Accordingly, this MOU is approved and is effective upon the date of the last signature below.

FEDERAL HIGHWAY ADMINISTRATION



Karla S. Petty, Division Administrator
Arizona Division Office



Date

STATE OF ARIZONA



Dallas Hammit, State Engineer and Deputy
Director for Transportation,
Arizona Department of Transportation



Date

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Appendix A

List of FHWA Responsibilities Assigned

Air Quality

Clean Air Act (CAA), 42 U.S.C. §§ 7401–7671q. *Including determinations for project-level conformity if required for the project.*

Noise

Noise Control Act of 1972, 42 U.S.C. §§ 4901-4918
Compliance with the noise regulations in 23 CFR part 772 (except approval of the State noise policy in accordance with 23 CFR 772.7)

Wildlife

Section 7 of the Endangered Species Act of 1973, 16 U.S.C. §§ 1531–1544, and 1536
Fish and Wildlife Coordination Act, 16 U.S.C. §§ 661–667d
Migratory Bird Treaty Act, 16 U.S.C. §§ 703–712

Historic and Cultural Resources

Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 306108
Archeological Resources Protection Act of 1979, 16 U.S.C. 470aa, et seq.
Section 4(f) of the Department of Transportation Act of 1966, 23 U.S.C. § 138 and 49 U.S.C. § 303; 23 CFR part 77 Title 54, Chapter 3125—Preservation of Historical and Archeological Data, 54 U.S.C. §§ 312501-312508
Native American Grave Protection and Repatriation Act (NAGPRA), 25 U.S.C. §§ 3001–3013; 18 U.S.C. § 1170

Social and Economic Impacts

American Indian Religious Freedom Act, 42 U.S.C. § 1996¹
Farmland Protection Policy Act (FPPA), 7 U.S.C. §§ 4201–4209

Water Resources and Wetlands

Clean Water Act, 33 U.S.C. §§ 1251–1377.
Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f–300j–6
Rivers and Harbors Act of 1899, 33 U.S.C. § 403
Wild and Scenic Rivers Act, 16 U.S.C. §§ 1271–1287
Emergency Wetlands Resources Act, 16 U.S.C. §§ 3921, 3931
Flood Disaster Protection Act, 42 U.S.C. 4001–4128
FHWA wetland and natural habitat mitigation regulations, 23 CFR part 777

Parklands

Section 4(f) of the Department of Transportation Act of 1966, 23 U.S.C. § 138 and 49 U.S.C. 303; and 23 CFR part 774
Land and Water Conservation Fund (LWCF), Pub. L. 88-578, 78 Stat. 897 (known as

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Section 6(f))

Hazardous Materials

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601–9675

Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. §§ 9671 – 9675

Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901–6992k

Land

Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. § 319

Executive Orders Relating to Highway Projects

E.O. 11990, Protection of Wetlands

E.O. 11988, Floodplain Management (except approving design standards and determinations that a significant encroachment is the only practicable alternative under 23 C.F.R. sections 650.113 and 650.115)

E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

E.O. 11593, Protection and Enhancement of Cultural Resources¹

E.O. 13007, Indian Sacred Sites¹

E.O. 13112, Invasive Species

FHWA-Specific

Planning and Environmental Linkages, 23 U.S.C. § 168, except for those FHWA responsibilities associated with 23 U.S.C. §§ 134 and 135

Programmatic Mitigation Plans, 23 U.S.C. § 169 except for those FHWA responsibilities associated with 23 U.S.C. §§ 134 and 135

Note:

¹Under these laws and Executive Orders, FHWA will retain responsibility for conducting formal government-to-government consultations with federally recognized Indian tribes. The State will continue to handle routine consultations with the tribes and understands that a tribe has the right to direct consultation with FHWA upon request. The State may also assist FHWA with formal consultations, with the consent of a tribe, but FHWA remains responsible that this consultation occurs.

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Appendix B

**List of ADOT Programmatic Agreements/Memoranda of Understanding
Statewide Agreements**

Programmatic Agreement between the Arizona Department of Transportation, Federal Highway Administration, the Arizona State Historic Preservation Officer, the Bureau of Indian Affairs, the Bureau of Land Management, the Bureau of Reclamation, the United States Army Corps of Engineers, the United States Forest Service, the Arizona State Land Department, Arizona State Parks, the Arizona State Museum, the Gila River Indian Community, the Hualapai Tribe and the Advisory Council on Historic Preservation.

Signatories: ADOT, FHWA, SHPO, BIA, BLM, BOR, Corps, USFS, ASLD, ASP, ASM, GRIC, Hualapai, ACHP

Effective Date: December 15, 2015

Memorandum of Agreement between the Arizona Department of Transportation, Federal Highway Administration, Arizona Division, and the United States Army Corps of Engineers Los Angeles District Concerning Funding for the Department if the Army Corps Permit Process on Priority Federal-Aid Highway Projects

Signatories: ADOT, FHWA, CORPS

Effective Date: March 18, 2013

Memorandum of Agreement between the Arizona Department of Transportation, the Federal Highway Administration, Arizona Division, and the United States Fish and Wildlife Service

Signatories: ADOT, FHWA, USFWS

Effective Date: June 16, 2015

Memorandum of Understanding between the Arizona Department of Transportation, the Federal Highway Administration, Arizona Division, and the Bureau of Land Management, Arizona

Signatories: ADOT, FHWA, BLM

Effective Date: September 2, 2008

Memorandum of Understanding Among the Arizona Department of Transportation, the Federal Highway Administration, Arizona Division, and the USDA Forest Service, Southwestern Region Regarding the Construction, Operation and Maintenance of Highways in Arizona Crossing National Forest System Lands

Signatories: ADOT, USFS, FHWA

Effective Date: September 2, 2008

List of related Agreements/Memoranda of Understanding

U.S. Environmental Protection Agency Region IX, U.S. Department of Transportation, Federal Highway Administration Arizona Division, Memorandum of Understanding, Sole Source Aquifer Review pursuant to Section 1424 (e) Of the Safe Drinking Water Act

Signatories: FHWA, EPA

Effective Date: November 27, 2002

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Appendix C

**Arizona Attorney General Letter of Opinion
Dated November 7, 2017**



MARK BRNOVICH
Attorney General

Office of the Attorney General
State of Arizona

November 7, 2017

Brandye Hendrickson
Acting Administrator
Federal Highway Administration
1200 New Jersey Ave., SE
Washington, DC 20590

Subject: Certification from State Attorney General required by FHWA for assignment of NEPA and other responsibilities to ADOT (23 U.S.C. §§ 326 & 327)

Dear Ms. Hendrickson:

Pursuant to the authority provided by the Moving Ahead for Progress in the 21st Century Act or "MAP-21," and specifically 23 U.S.C. § 327 as amended by MAP-21, the Arizona Department of Transportation ("ADOT") has advised this Office that it is submitting an application to the Federal Highway Administration ("FHWA") for assignment of responsibilities for compliance with the National Environmental Policy Act ("NEPA") and other federal environmental laws for federal-aid highway projects ("NEPA Assignment"). On September 16, 2014, FHWA published rules setting forth the requirements for such applications.¹ FHWA's rules specify that a state's application for NEPA Assignment must include certain certifications by the State's Attorney General or other state official legally empowered by state law to issue legal opinions that bind the state.²

ADOT and FHWA plan to enter into a Memorandum of Understanding ("MOU") regarding the assignment of the federal environmental review responsibilities after a public review of the application. ADOT and FHWA also plan to enter into a separate MOU for the assignment of authority to make categorical exclusion determinations under 23 U.S.C. § 326 ("CE Assignment"). The purpose of this letter is to provide the certifications required by FHWA to accompany ADOT's application for NEPA Assignment as well as to enter into MOU's for both NEPA Assignment and CE Assignment.

The Attorney General serves as the chief legal officer of the state.³ In my official capacity as Attorney General of the State of Arizona, I hereby certify the following:

- As stated in A.R.S. § 28-334(C)(1), ADOT is legally authorized by state law to assume the responsibilities of the United States Department of Transportation with respect to duties

¹ 79 Fed. Reg. 55,381 (Sept. 16, 2014).

² 23 C.F.R. § 773.109(a)(6)-(7)

³ A.R.S. § 41-192

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under NEPA and any other federal environmental law pertaining to review or approval of a highway project in this state.

- The Legislature enacted A.R.S. § 28-334(C)(2), providing, “[s]overeign immunity from civil suit in federal court is waived consistent with 23 United States Code §§ 326 and 327 and limited to the compliance, discharge or enforcement of a responsibility assumed by... [ADOT]... under this paragraph.” The State’s waiver is made consistent with 23 U.S.C. § 327, which states: “[t]he United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.”
- The Arizona Public Records Law (A.R.S. § 39-101 *et seq.*) is comparable to 5 U.S.C. § 552 (the Freedom of Information Act), including providing that any decision regarding the public availability of a document under state law is reviewable by a court of competent jurisdiction.

Sincerely,



Mark Brnovich
Attorney General

#0581697

1 **Attachment C: Memorandum of Understanding between Federal Highway Administration**
2 **and the Arizona Department of Transportation Concerning the State of Arizona’s**
3 **Participation in the Surface Transportation Project Delivery Program Pursuant to 23**
4 **U.S.C. 327**

5
6 **Note:** This MOU has not been executed, but is imminent. Once the MOU is executed it will be
7 posted on the ADOT Environmental Planning website at
8 <https://www.azdot.gov/business/environmental-planning/ce-assignment-and-nepa-assignment>
9

10

DRAFT