

**MEMORANDUM OF AGREEMENT
BETWEEN
THE BUREAU OF LAND MANAGEMENT
AND
THE NEVADA STATE HISTORIC PRESERVATION OFFICER
REGARDING
THE DRY LAKE EAST SOLAR ENERGY PROJECT
CLARK COUNTY, NEVADA**

WHEREAS, Boulevard Associates, LLC (Applicant) has applied for a right-of-way (ROW) grant on public lands managed by the Bureau of Land Management (BLM) and has submitted a plan of development (POD) to construct, operate and maintain a photovoltaic solar electric generation facility and a 230 kilovolt (kV) generation tie line (gen-tie) on public lands managed by the BLM, including construction of access and maintenance roads, laydown and staging areas, and support facilities and infrastructure (hereinafter, the “Project”); and

WHEREAS, the BLM has determined that the issuance of a ROW (proposed federal action) to the Applicant in accordance with the Federal Land Policy and Management Act (FLPMA) 43 USC Part 1701, et seq., and authorization of the Project is an undertaking subject to 54 USC Part 306108, commonly known as Section 106 of the National Historic Preservation Act (NHPA), and its implementing regulations at 36 CFR Part 800 (2004); and

WHEREAS, the BLM has consulted with the Nevada State Historic Preservation Officer (SHPO) in accordance with the regulations at 36 CFR Part 800.6(c), and is a Signatory to this Agreement; and

WHEREAS, in accordance with the regulations at 36 CFR Part 800.6(a)(1), BLM has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination, and has invited the ACHP to participate in consultation to resolve the potential effects on historic properties, and the ACHP has elected not to participate in the consultation pursuant to 36 CFR Part 800.6(a)(1)(iii) and their letter dated February 29, 2024; and

WHEREAS, the BLM has prepared the *Environmental Assessment for the Dry Lake East Solar Energy Project* (January 2024) to identify Project alternatives for purposes of the National Environmental Policy Act (NEPA), has comparatively examined the effects of the alternatives on known historic properties, and has provided the public opportunities to comment on the Project through the NEPA process consistent with 36 CFR Part 800.2(d)(3), including public scoping (February-March 2023), public review of the EA (January – February 2024), and a public meeting held in January 2024. Public materials included information about the NHPA Section 106 process, and BLM considered comments received through the NEPA and the NHPA processes concerning cultural resources in the development of this Agreement; and

WHEREAS, the Applicant has participated in this consultation per 36 CFR Part 800.2(c)(4), will be the entity to whom the BLM may grant a ROW, and has the responsibility for carrying out the specific terms of this Agreement under the oversight of the BLM, and is an Invited Signatory to this Agreement; and

WHEREAS, the BLM has determined, in consultation with the SHPO, that the Project will have an adverse effect on the eight (8) historic properties, including: 26CK4786, 26CK4787, 26CK6122/26CK6814, 26CK11450, 26CK11476, which are eligible for the National Register of Historic Places (NRHP) under the Secretary of Interior's Significance Criterion D; the Old Spanish Trail/Mormon Road (26CK3536/26CK3848/26CK6115) and U.S. Highway 91/Arrowhead Trail (26CK4369/26CK4958/26CK7793) both under the Secretary of Interior's Significance Criteria A and D; and the Union Pacific Railroad (UPRR)/ San Pedro, Los Angeles, and Salt Lake Railroad (26CK4429/26CK5865) under the Secretary of Interior's Significance Criteria A, C and D); and

WHEREAS, the BLM has identified one (1) archaeological site (26CK1207) which remains unevaluated for the NRHP. The BLM will manage the unevaluated archaeological site as eligible for inclusion in the NRHP for project management purposes, and through the imposition of monitoring and avoidance measures; and

WHEREAS, pursuant to the special relationship between the federal government and Indian tribes, and Section 101(d)(6)(B) of the NHPA (54 USC Part 300101), the BLM is responsible for government-to-government consultation with federally recognized Indian tribes. The BLM has formally notified and invited the following federally recognized Indian tribes to consult on the Project and to participate in this Agreement as Concurring Parties: Big Pine Paiute Tribe, Bishop Paiute Tribe, Chemehuevi Indian Tribe, Colorado River Indian Tribes, Fort Independence Paiute Tribe, Fort Mojave Indian Tribe, Hopi Tribe, Hualapai Tribe, Kaibab Band of Paiute Indians, Las Vegas Paiute Tribe, Lone Pine Paiute-Shoshone Tribe, Moapa Band of Paiutes, Paiute Indian Tribe of Utah, San Juan Southern Paiute Tribe, Timbisha Shoshone Tribe, Twenty-nine Palms Band of Mission Indians, and Utu Utu Gwaitu Paiute Tribe (hereinafter collectively referred to as Tribes). The BLM will continue to consult with all Tribes throughout the implementation of this Agreement regardless of their decision to concur by signature in this Agreement; and

WHEREAS, the BLM has invited the National Park Service (NPS), as the Old Spanish National Historic Trail (OSNHT) Co-administrator, to participate in the development of this Agreement. The NPS declined to participate in an email response dated January 16, 2024; and

WHEREAS, the Old Spanish Trail Association (OSTA) has been invited to consult on this undertaking and this Agreement, have been afforded consulting party status pursuant to 36 CFR Part 800.3(f)(3), and have been invited to be a Concurring Party to this Agreement; and

WHEREAS the Signatories, Invited Signatory, and Concurring Parties (hereinafter collectively referred to as Consulting Parties) agree that this Agreement may be signed in counterparts, and the executed Agreement, and each signature, will be effective and binding as if all Parties had signed the same document; and

NOW, THEREFORE, the BLM and the SHPO (hereinafter Signatories) agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

DEFINITIONS

The definitions found at 36 CFR Part 800.16 and in Appendix A shall apply throughout this Agreement. If there is a conflict between the definitions in the implementing regulations and Appendix A, the regulations shall govern.

STIPULATIONS

The BLM shall ensure that the following measures are implemented:

I. AREA OF POTENTIAL EFFECTS

- A. The APE is depicted in Appendix B to this Agreement. The APE, as currently defined, encompasses an area sufficient to accommodate all of the proposed and alternative Project components under consideration as of the date of execution of this Agreement. The APE includes all areas where potential physical effects may occur, as well as visual, auditory, and atmospheric effects, and cumulative effects. If BLM selects a Project alternative for implementation, the APE shall be defined to exclusively encompass the area of that selected alternative. If it is determined in the future that the undertaking may directly or indirectly affect historic properties located outside the defined APE, then the BLM, in consultation with SHPO and pursuant to 36 CFR Part 800.4(a)(1), shall determine and document modifications to the APE using the following process:
1. Consulting Parties to this Agreement may propose that the APE established herein be modified. The Signatories and Invited Signatory will consult to determine that such modification is warranted, and whether that modification requires the Agreement to be amended. For small-scale changes to the APE made as a result of ongoing construction, the BLM will modify the APE in Appendix B as agreed by the Signatories and Invited Signatory, but an amendment to the Agreement may not be required. If a Signatory or Invited Signatory determines that an amendment to the Agreement is required, the Consulting Parties will proceed in accordance with Stipulation VIII below.
 2. If the Signatories and Invited Signatory agree to the proposal, then the BLM will prepare a description and a map of the modification. The BLM will keep copies of the description and the map on file for its administrative record and distribute copies of each to the other Consulting Parties within thirty (30) calendar days of the day upon which agreement was reached.
 3. Where modification to the APE adds a new geographic area, the BLM shall take the steps necessary to identify, evaluate, and take into account the effects of the undertaking on historic properties in the new geographic area in accordance with this Agreement.

4. If the Signatories and Invited Signatory cannot agree to a proposal for the modification of the APE, then they will resolve the dispute in accordance with Stipulation IX.

II. AVOIDANCE AND MITIGATION MEASURES

A. Avoidance Measures

1. The BLM will avoid effects to the Criterion D values of historic properties through the implementation of the management measures identified in Table 1 of Appendix C and the following:
 - a) The Applicant, through their contractor, will identify and label as Environmentally Sensitive Areas (ESAs) all archaeological sites that can be protected from direct impacts, but are within 100 feet, including buffer areas, of proposed construction activities. This includes archaeological sites determined eligible for inclusion in the NRHP and archaeological sites that have not been formally evaluated but are being treated as eligible and avoided for project management purposes.
 - b) The Applicant, through their contractor, will designate ESAs by marking the boundaries of historic properties with appropriate buffer zones using temporary fencing or other easily recognizable boundary defining materials. ESAs will have a minimum buffer of fifty (50) feet beyond the outer limits of the property extent, as demonstrated by surface and/or subsurface indications.
 - c) The Applicant will ensure that these areas will be shown on the engineering plans for the Project as off limits to construction activities.
 - d) Once established, an ESA will define areas where construction activities cannot occur, in order to prevent effects to historic properties within the designated ESA.
2. The Applicant, through their contractor, will identify and establish ESAs prior to initiation of ground disturbing activities in the vicinity of the historic property and will be maintained and monitored for the duration of the work effort in the ESA vicinity.

B. Mitigation of Adverse Effects

1. Approval of the Project will cause adverse physical effects to the Criterion D values of archaeological sites 26CK4786, 26CK4787, 26CK6122/26CK6814, 26CK11450, and 26CK11476. Should BLM approve an alternative that adversely affects these properties the BLM shall ensure that the adverse effect of the Project on these properties is resolved through data recovery. The BLM will prepare a Historic Properties Treatment Plan (HPTP) for these properties, in accordance with Stipulation V below, and the final HPTP will be included as Appendix D to this Agreement.

2. BLM has determined that the approval of the Project will cause visual effects to the setting of the Old Spanish Trail/Mormon Road (26CK3536/26CK3848/26CK6115); the UPRR/San Pedro, Los Angeles, and Salt Lake Railroad (26CK4429/26CK5865); and U.S. Highway 91/Arrowhead Trail (26CK4369/26CK4958/26CK7793). The BLM shall ensure that the adverse effects to the setting of these resources will be resolved through development of a roadside interpretive kiosk near the Interstate 15 and U.S. Highway 93 interchange. The interpretive kiosk will include information designed to communicate the significance of the properties to the public. The BLM will prepare a HPTP for these properties, in accordance with Stipulation V below, and the final HPTP will be included as Appendix E to this Agreement.
- C. Within forty-five (45) days of the issuance of the Notice to Proceed for this undertaking, the Applicant will identify to the BLM the contractor(s) who, under contract to the Applicant, will be responsible for developing and completing the mitigation products described in Stipulations II (B)(1) – (2) above.
1. Prior to carrying out any activities related to any mitigation measure, the contractor(s) shall meet with the BLM and the Applicant to discuss the goals of the Project and work plan requirements, including lines of communication, deliverables, schedules, and any terms and conditions.
 2. The contractor(s) will provide the BLM with draft work plans for completing work required in the mitigation measures within forty-five (45) days of meeting with the BLM and the Applicant, and prior to initiation of any work.
 - a) Each work plan shall document lines of communication, key personnel, and provide appropriate natural and cultural context to support the research design and methods proposed for completion of the mitigation measure. The work plans shall also include a schedule of milestones and timeline for completion of the work.
 - b) The BLM will provide copies of the draft work plans to the Consulting Parties for review in accordance with the communication and reporting procedures in Stipulation V below.
 3. The BLM will authorize the Applicant and the contractor(s) to initiate work on each mitigation measure upon BLM approval of each work plan.

D. General Mitigation Stipulations

1. Should the undertaking be approved by the BLM, mitigation measures will be initiated after the ROW is granted and prior to the issuance of a Notice to Proceed for construction. Fieldwork associated with Stipulation II (B)(1) must be completed prior to the issuance of a Notice to Proceed.
2. The BLM shall notify and submit a summary report to the Consulting Parties within thirty (30) days after the BLM has determined that all work required by a work plan

has been completed. The Consulting Parties will have five (5) working days to review the summary report consistent with Stipulation V (B) below.

3. The Applicant, through their contractor(s) will submit a draft technical report to the BLM that documents the results of implementing each work plan within twelve (12) months after BLM has determined that all work required by a work plan has been completed, or pursuant to an alternative schedule required by any work plan implementing the terms of this Agreement. The BLM will provide draft technical reports for each work plan to the Consulting Parties for review as provided in Stipulation V.
4. Copies of the final technical reports documenting the results of implementing each work plan will be distributed by BLM to the Consulting Parties.

III. MONITORING

A. Archaeological Monitoring

1. The Applicant, in consultation with the other Consulting Parties, may develop a comprehensive archaeological monitoring plan that will be in effect during construction of the Project. If developed, this comprehensive archaeological monitoring plan will be incorporated into the plan for post-review discoveries and unanticipated effects and attached as Appendix F. In the absence of a comprehensive archaeological monitoring plan the following will apply:
 - a) The Applicant shall ensure that archaeological monitors will be on site during construction to observe grading, trenching or other ground disturbing activities for any facilities, roads or other Project components related to the undertaking near ESAs and in other areas designated for full-time monitoring, as detailed in Stipulation II (A).
 - b) The Applicant shall ensure that archaeological monitors meet the standards specified in Stipulation VI (A), are approved and permitted by the BLM, are familiar with the types of historic and prehistoric archaeological resources that are likely to occur in the APE, and are directly supervised by a principal archaeologist (PA).
 - c) The Applicant shall ensure that the PA will submit monthly documentation of archaeological monitoring activities to the BLM by email. Documentation will include the location of archaeological monitoring activities for the reporting time period, as well as a description of any archaeological resources identified, and any actions taken.
 - d) The Applicant shall ensure that the PA will submit a monitoring report to the BLM for review and approval within three (3) months of completion of all archaeological monitoring tasks and requirements related to Project construction.

The monitoring report will describe the monitoring program and its findings and results, and present a detailed professional description, analysis, and evaluation of any cultural resources that were encountered and evaluated during construction. The BLM will provide a copy of the monitoring report to the Consulting Parties for review in accordance with Stipulation V below.

IV. POST-REVIEW DISCOVERIES AND UNANTICIPATED EFFECTS

- A. The BLM shall develop a comprehensive plan to manage post-review discoveries and unanticipated effects in accordance with Stipulation V below. This plan shall be attached as Appendix F to this Agreement.
- B. If human remains and/or associated funerary objects compose all or part of the discovery, then the BLM shall follow the process described in the Native American Graves Protection and Repatriation Act (NAGPRA) regulations at 43 CFR Part 10.
- C. The BLM, in consultation with SHPO, may assume NRHP eligibility of discovered archaeological properties under Criterion D pursuant to 36 CFR Part 800.13 (c), and notify all Consulting Parties within 48 hours of the discovery. The adverse effects to the historic property will be resolved through implementation of the Archaeological Monitoring, Post-Review Discovery, and Unanticipated Effects Plan (Appendix F). A report of the completed actions will be provided to all Consulting Parties.

V. COMMUNICATION AND REPORTING

- A. The BLM shall submit all documents referenced in the Agreement, including appendices, work plans, and final reports, to the Consulting Parties in complete but draft form for review via certified mail and/or email in PDF format in the format previously requested by the Consulting Party.
 - 1. Consulting Parties will have thirty (30) calendar days following receipt of a draft document to review and comment on the document. If the Consulting Party fails to provide timely comments, the BLM may finalize the document.
 - 2. The BLM will address all timely Consulting Party comments with written documentation indicating whether and how the document will be modified in response to such comments. The BLM will submit the revised document for Consulting Party review.
 - 3. Unless Consulting Parties object to the revisions in writing to the BLM within thirty (30) calendar days following receipt of the revised document, BLM may finalize the document.
 - (1) If a Consulting Party objects to the revisions during the comment period, the BLM will consult with the objecting party for no more than thirty (30) days to resolve the objection. If the objection is resolved, the BLM will notify Consulting

Parties of the resolution and may revise and finalize the document. If the objection cannot be resolved, the BLM shall follow the procedures in Stipulation IX.

4. The BLM will provide a copy of the final document to the Consulting Parties via certified mail and/or email in PDF format as requested by the Consulting Party.
- B. The BLM shall notify and submit a summary report to the Consulting Parties within thirty (30) days after the BLM has determined that all work required by a work plan under Stipulation II above has been completed. The Consulting Parties will review the summary within five (5) working days of receipt. If the Consulting Parties do not respond within five (5) working days, the BLM may issue the Notice to Proceed.

VI. ADMINISTRATIVE STANDARDS

- A. **PROFESSIONAL QUALIFICATION STANDARDS.** All actions prescribed by this Agreement that involve the identification, evaluation, analysis, recordation, treatment, monitoring, and disposition of historic properties and that involve the reporting and 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 meeting, at a minimum, the Secretary of the Interior's Professional Qualifications Standards (PQS), as appropriate (48 Fed. Reg. 44738-44739 dated September 29, 1983). However, nothing in this Stipulation may be interpreted to preclude any party qualified under the terms of this paragraph from using the services of persons who do not meet the PQS, so long as the work of such persons is directly supervised by someone who meets the PQS.
- B. **DOCUMENTATION STANDARDS.** Reporting on and documenting the actions cited in this Agreement shall conform to every reasonable extent with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 Fed Reg. 44716-40 dated September 29, 1983), as well as, the BLM 8100 Manual, the BLM-Nevada Guidelines and Standards for Archaeological Inventory, sixth edition (2019), and the guidance provided in the ACHP's Section 106 Archaeology Guidance (2009) as appropriate.
- C. **CURATION STANDARDS.** On BLM-administered land, all records and materials resulting from the actions required by this Agreement shall be curated in accordance with 36 CFR Part 79, and the provisions of the NAGPRA regulations, 43 CFR Part 10, as applicable.

VII. IMPLEMENTATION OF THE UNDERTAKING

- A. The BLM may authorize construction activities, including but not limited to those listed below, to proceed in specific geographic areas where there are no historic properties; where there will be no adverse effect to historic properties; where an archaeological monitoring and post-review discovery process or plan is in place per Stipulation III and IV, or in areas where a mitigation plan has been approved and initiated, field work

completed and a summary report submitted to the Consulting Parties in accordance with Stipulation V (B) above. Such construction activities may include:

1. Demarcation, set up, and use of staging areas for construction of the undertaking.
2. Installation of initial site fencing.
3. Conduct of geotechnical boring investigations or other geophysical and engineering activities.
4. Grading and construction of buildings and support facilities.
5. Construction of transmission lines.

- B. Initiation of any construction activities on federal lands shall not occur until after the BLM issues the Record of Decision (ROD), ROW grant, and Notice(s) to Proceed.

VIII. AMENDMENTS TO THE AGREEMENT

- A. This Agreement may be amended only upon written agreement of the Signatories and Invited Signatory. Upon receipt of a request to amend this Agreement, the BLM will immediately notify the other Consulting Parties and initiate a thirty (30) day period to consult on the proposed amendment, whereupon all Consulting Parties shall consult to consider such amendments. Amendments to this Agreement shall take effect on the dates that they are fully executed by the Signatories and Invited Signatory.
- B. If agreement to a proposed amendment cannot be reached within the thirty (30) day period, resolution of the issue may proceed by following the dispute resolution process set forth in Stipulation IX.
- C. A Consulting Party may request modifications, additions, or deletions to the appendices. The BLM will follow the process identified in Stipulations VIII (A) and (B) above in considering such a request. Modifications, additions, or deletions to the appendices may not require the Agreement to be amended. If a Signatory or Invited Signatory determines that an amendment to the Agreement is required, the Consulting Parties will proceed in accordance with Stipulation VIII (A) above. Consultation on any modifications, additions, or deletions to the appendices may proceed without affecting the implementation of any other Stipulation to this Agreement.
- D. The terms of this Agreement are a condition of any ROD and the ROW grant that the BLM may issue and are binding on the Applicant. For purposes of this Agreement, changes in the corporate name of the Applicant or reassignment of the ROW to a subsidiary company or other entity may be authorized by the BLM and does not require the Agreement to be amended.

IX. DISPUTE RESOLUTION

- A. Should the Signatories or Invited Signatory object at any time to the manner in which the terms of this Agreement are implemented, the BLM will immediately notify the other

Signatories and Invited Signatory and consult for no more than thirty (30) days to resolve the objection.

- B. If the objection can be resolved within the consultation period, the BLM may authorize the disputed action to proceed in accordance with the terms of such resolution.
- C. If the objection cannot be resolved within the consultation period, the BLM will forward all documentation relevant to the objection, including the BLM proposed resolution, to the ACHP with copies to the Consulting Parties. Any comments provided by the ACHP within thirty (30) days after its receipt of all relevant documentation will be taken into account by the BLM in reaching a final decision regarding the objection.
 - 1. The ACHP shall provide the BLM with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, the SHPO, and Concurring Parties, and provide them with a copy of this written response. The BLM will then proceed according to its final decision.
 - 2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the BLM may make a final decision on the dispute and proceed accordingly. Prior to reaching a final decision on the dispute, the BLM shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the SHPO and the Concurring Parties and provide them and the ACHP with a copy of such written response.
- D. The BLM's responsibility to carry out all other actions under this Agreement that are not the subject of the objection will remain unchanged.
- E. At any time during implementation of the terms of this Agreement, should an objection pertaining to the Agreement be raised by a Concurring Party or a member of the interested public, the BLM shall immediately notify the Consulting Parties, consult with the SHPO about the objection, and take the objection into account. The other Consulting Parties may comment on the objection to the BLM. The BLM shall consult with the objecting party for no more than thirty (30) days. Within fourteen (14) days following closure of consultation, the BLM will render a final decision regarding the objection and proceed accordingly after notifying all parties of its decision in writing. In reaching its final decision, the BLM will take into account all comments from the parties regarding the objection.

X. TERMINATION

- A. If any Signatory or Invited Signatory determines that its terms will not or cannot be carried out, that party shall immediately consult with the other Signatories and Invited Signatory to amend this Agreement in accordance with Stipulation VIII above. If resolution regarding an amendment has not been reached within sixty (60) days, a

Signatory or Invited Signatory may terminate the Agreement upon ten (10) days written notification to the other Signatory and Invited Signatory. Following written notification, the terminating Signatory or Invited Signatory will inform the Concurring Parties.

- B. If the Agreement is terminated, and prior to work continuing, the BLM shall either (a) execute a new Agreement pursuant to 36 CFR Part 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR Part 800.7. The BLM shall notify the SHPO and Invited Signatory as to the course of action that it will pursue.

XI. ADDITION/WITHDRAWAL OF PARTIES TO/FROM THE AGREEMENT

- A. Should conditions of the undertaking change such that other federal agencies, state agencies, Indian tribes, tribal organizations or other organizations or individuals not already party to this Agreement request in writing to participate, the BLM will notify the Consulting Parties and consider the request to participate in the Agreement. Should the BLM agree to the request to participate, the Agreement shall be amended following the procedures in Stipulation VIII.
- B. In the event that the Applicant applies for additional federal funding or other federal approvals, such funding or approving agency may comply with Section 106 and 36 CFR Part 800.2 (a)(2) by agreeing in writing to the terms of this Agreement and notifying and consulting with the SHPO and ACHP. Any necessary modifications will be made in accordance with Stipulation VIII.
- C. Should a Concurring Party determine that its participation in this Agreement is no longer warranted, the Concurring Party may withdraw from participation by informing the BLM. The BLM shall inform the Consulting Parties of the withdrawal. Withdrawal of a Concurring Party does not require an amendment of the Agreement.

XII. DURATION OF THIS AGREEMENT

- A. This Agreement will expire if construction has not been initiated and the BLM ROW grant expires or is withdrawn, or if the stipulations of this Agreement have not been initiated, within five (5) years from the date of execution. Prior to such time, the BLM may consult with the SHPO and Invited Signatory to reconsider the terms of the Agreement and amend it in accordance with Stipulation VIII above.
- B. Unless the Agreement is terminated pursuant to Stipulation X, another agreement executed for the undertaking supersedes it, or the undertaking itself has been terminated, this Agreement will remain in full force and effect until BLM, in consultation with the Signatory and Invited Signatory, determines that all terms of this Agreement have been fulfilled in a satisfactory manner or five (5) years, whichever comes first. The effective period of this Agreement may be extended as provided in Stipulation VIII. Upon a determination by BLM that implementation of all aspects of the undertaking have been completed and that all terms of this Agreement have been fulfilled in a satisfactory manner, BLM will notify the Consulting Parties in writing of the agency's determination. This Agreement will terminate and have no further force or effect thirty (30) days after

BLM so notifies the Consulting Parties unless BLM retracts its determination before the end of that period.

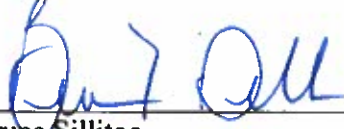
XIII. EFFECTIVE DATE

- A. This Agreement and any amendments shall take effect on the date that it has been fully executed by the Signatories.
- B. Execution and implementation of this Agreement is evidence that the BLM has taken into account the effect of the undertaking on historic properties, afforded the ACHP a reasonable opportunity to comment, and that the BLM has satisfied its responsibilities under Section 106. The Signatories and Invited Signatory to this Agreement represent that they have the authority to sign for and bind the entities on behalf of whom they sign.

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SIGNATORY PARTY

U.S. BUREAU OF LAND MANAGEMENT-LAS VEGAS FIELD OFFICE

BY:  DATE: 4/18/24
Bruce Sillitoe
Field Manager

SIGNATORY PARTY

NEVADA STATE HISTORIC PRESERVATION OFFICE

BY: *Rebecca L. Palmer on behalf of Rebecca L. Palmer* DATE: 4-18-24
Rebecca L. Palmer
State Historic Preservation Officer

INVITED SIGNATORY PARTIES

Boulevard Associates, LLC

INVITED SIGNATORY

BOULEVARD ASSOCIATES, LLC

BY: _____ DATE: _____

TITLE: _____

PARTIES INVITED TO CONCUR IN THE AGREEMENT

OLD SPANISH TRAIL ASSOCIATION
BIG PINE PAIUTE TRIBE
BISHOP PAIUTE TRIBE
CHEMEHUEVI INDIAN TRIBE
COLORADO RIVER INDIAN TRIBES
FORT INDEPENDENCE PAIUTE TRIBE
FORT MOJAVE INDIAN TRIBE
HOPI TRIBE
HUALAPAI TRIBE
KAIBAB BAND OF PAIUTE INDIANS
LAS VEGAS PAIUTE TRIBE
LONE PINE PAIUTE-SHOSHONE TRIBE
MOAPA BAND OF PAIUTE
PAIUTE INDIAN TRIBE OF UTAH
SAN JUAN SOUTHERN PAIUTE TRIBE
TIMBISHA SHOSHONE TRIBE
TWENTY-NINE PALMS BAND OF MISSION INDIANS
UTU UTU GWAITU PAIUTE TRIBE

CONCURRING PARTY

OLD SPANISH TRAIL ASSOCIATION

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

BIG PINE PAIUTE TRIBE

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

BISHOP PAIUTE TRIBE

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

CHEMEHUEVI INDIAN TRIBE

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

COLORADO RIVER INDIAN TRIBES

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

FORT INDEPENDENCE PAIUTE TRIBE

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

FORT MOJAVE INDIAN TRIBE

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

HOPI TRIBE

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

HUALAPAI TRIBE

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

KAIBAB BAND OF PAIUTE INDIANS

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

LAS VEGAS PAIUTE TRIBE

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

LONE PINE PAIUTE-SHOSHONE TRIBE

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

MOAPA BAND OF PAIUTES

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

PAIUTE INDIAN TRIBE OF UTAH

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

SAN JUAN SOUTHERN PAIUTE TRIBE

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

TIMBISHA SHOSHONE TRIBE

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

TWENTY-NINE PALMS BAND OF MISSION INDIANS

BY: _____ DATE: _____

TITLE: _____

CONCURRING PARTY

UTU UTU GWAITU PAIUTE TRIBE

BY: _____ DATE: _____

TITLE: _____

APPENDIX A:
DEFINITION OF TERMS

- a) **Applicant.** Refers to Boulevard Associates, LLC, or any holder of the BLM assigned ROW. The terms of this Agreement are a condition of any ROD and the ROW grant that the BLM may issue and are binding on the Applicant. For purposes of this Agreement, changes in the corporate name of the Applicant or reassignment of the ROW to a subsidiary company or other entity may be authorized by the BLM and does not require the Agreement to be amended. All Consulting Parties will be notified in writing of a change in company name or reassignment of the ROW to another company.
- b) **Area of Potential Effect.** The APE is defined as the total geographic area or areas within which the undertaking may directly or indirectly cause alterations in the character or use of historic properties per 36 CFR Part 800.16(d). The APE is influenced by the scale and nature of an undertaking and includes those areas which could be affected by an undertaking prior to, during and after construction.
- c) **Concurring Parties.** Collectively refers to parties (not Signatories or Invited Signatory) with a demonstrated interest in the undertaking, who agree, through their signature, with the terms of this Agreement. Concurring Parties may propose amendments to this Agreement.
- d) **Cultural Resource.** A cultural resource is an object or definite location of human activity, occupation, use, or significance identifiable through field inventory, historical documentation, or oral evidence. Cultural resources are prehistoric, historic, archaeological, or architectural sites, structures, buildings, places, or objects and locations of traditional cultural or religious importance to specified social and/or culture groups. Cultural resources include the entire spectrum of objects and places, from artifacts to cultural landscapes, without regard to eligibility for inclusion on the National Register of Historic Places (NRHP) or California Register of Historical Resources (CRHR).
- e) **Consulting Parties.** Collectively refers to the Signatories, Invited Signatory and Concurring Parties who have signed this Agreement.
- f) **Historic Properties.** Properties (cultural resources) that are included in, or eligible for inclusion in, the NRHP maintained by the Secretary of the Interior and per the NRHP eligibility criteria at 36 C.F.R. § 60.4 and may include any prehistoric or historic district, site, building, structure, traditional cultural property or object. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that meet the NRHP criteria. The term “eligible for inclusion on the NRHP” refers both to properties formally determined as such in accordance with regulations of the Secretary of the Interior and all other properties that meet the NRHP criteria.
- g) **Invited Signatory.** Invited Signatories are parties that have specific responsibilities as defined in this Agreement. The Invited Signatory who signs this Agreement has the same rights with regard to seeking amendment or termination of this Agreement as the Signatories, but whose signature is not required for execution of the Agreement. The Invited Signatory to this Agreement is the Applicant.
- h) **Lands Administered by the U.S. Department of Interior, Bureau of Land Management (BLM)** means any federal lands under the administrative authority of the BLM.
- i) **Literature Review.** A literature review is one component of a BLM class I inventory, as defined in BLM Manual Guidance 8100.21(A)(1), and is a professionally prepared study

that includes a compilation and analysis of all reasonably available cultural resource data and literature, and a management-focused, interpretive, narrative overview, and synthesis of the data. The overview may also define regional research questions and treatment options.

- j) **Records Search.** A records search is one component of a BLM class I inventory and an important element of a literature review. A records search is the process of obtaining existing cultural resource data from published and unpublished documents, BLM cultural resource inventory records, institutional site files, state and national registers, interviews, and other information sources.
- k) **Signatories.** Signatories are parties that have the sole authority to execute, amend, or terminate this Agreement. Signatories to this Agreement are the BLM and the SHPO.
- l) **Traditional Cultural Property.** A traditional cultural property is defined generally as a property that is important to a living group or community because of its association with cultural practices or beliefs that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community. It is a place, such as a traditional gathering area, prayer site, or sacred/ceremonial location that may figure in important community traditions. These places may or may not contain features, artifacts, or physical evidence, and are usually identified through consultation. A traditional cultural property may be eligible for inclusion in the NRHP.
- m) **Tribes.** The federally recognized Indian tribes that the BLM is consulting with on this undertaking.
- n) **Undertaking.** Collectively refers to all projects, activities, or programs funded in whole or in part under the direct or indirect jurisdiction of the federal agencies (BLM) that are party to this Agreement, including those carried out by or on behalf of the federal agency; those carried out by federal financial assistance; and those requiring a federal permit, license, or approval.

APPENDIX B:
AREA OF POTENTIAL EFFECTS

The BLM has defined the APE for the Dry Lake East Solar Energy Project based on consideration of direct, indirect, and cumulative effects. The APE was established in consultation with identified consulting parties, and consistent with 36 CFR Part 800.4.

The proposed Dry Lake East Solar Project is located 10 miles northeast of Las Vegas in the Dry Lake East Designated Leasing Area (DLA). This area was designated as a preferred location for solar energy development in 2020 with input from agencies and the public. The BLM held a competitive auction for the area in 2022 and the successful bidder was determined to be the preferred applicant for the site. The application proposal includes the construction, operation and maintenance, and eventual decommissioning of a 200 megawatt (MW) photovoltaic solar facility with 200 MW of battery energy storage and an additional 400 MW battery energy storage facility.

1. The area within which historic properties could sustain physical effects as a result of the undertaking encompasses approximately 1,801 acres of BLM-administered public lands and is defined to include:
 - a) The DLA boundary, which includes the proposed photovoltaic solar power generation facility, Battery Energy Storage System (BESS), and on-site substation, includes approximately 1,635 acres and generally includes; portions of Section 35 of Township 17S and Range 63E; Section 32 of Township 17S and Range 64E; Sections 1, 2, and 12 of Township 18S and Range 63E; and Sections 5, 6, 7, and 8 of Township 18S and Range 64E (Mount Diablo Baseline and Meridian).
 - b) All linear elements of the undertaking, which are located outside of the DLA boundary, and include:
 - i) A ROW for a 230 kV generation tie-in transmission (gen-tie) line. The ROW is approximately 100-foot wide and 3.5 miles long and extends from the southwestern side of the solar facility to the Harry Allan Substation. The survey corridor for cultural resources for this linear element was established as a 50-foot-wide buffer on either side of the center line (100-foot-wide corridor).
 - ii) A ROW for an approximately one-mile-long existing dirt access road that extends from the end of an existing paved road to the southwestern end of solar facility on the east side of Interstate 15 that will be widened and improved to 16 feet in width. A ROW for approximately 3.5 miles of existing access roads along the gen-tie corridor on the west side of Interstate 15 that will be widened and improved to 20 feet in width. The survey corridor for cultural resources for these linear elements was established as a 50-foot-wide buffer on either side of the center line (100-foot wide corridor).
2. The area within which historic properties could sustain visual, auditory, and atmospheric (VAA) effects as a result of the undertaking has been defined as the VAA effects area and includes:

- a) The viewshed up to five miles surrounding the physical effects area. This area has been defined based on a GIS viewshed analysis to include only those areas within the five-mile buffer that are visible from the proposed project. Historic properties analyzed within the VAA effects area include the following:
 - i) Historic properties eligible the NRHP for their associative values (Criteria A-C) that are identified through a review of existing literature, information, or records on file with the BLM or the Nevada Cultural Resources Information System (NVCRIS), and a review of historic maps and General Land Office (GLO) records.
 - ii) Historic properties identified through a literature review or records search, or identified by a Tribe, through consultation as having religious or cultural significance that may be affected by the undertaking.
 - iii) Historic properties that have been identified by a consulting party, organization, governmental entity, or individual through consultation or the public commenting processes as having significance or being a resource of concern that may be affected by the undertaking.
3. The area within which historic properties could sustain indirect and/or cumulative effects to historic properties as a result of the undertaking has been defined as the largest extent of the APE for the proposed project.

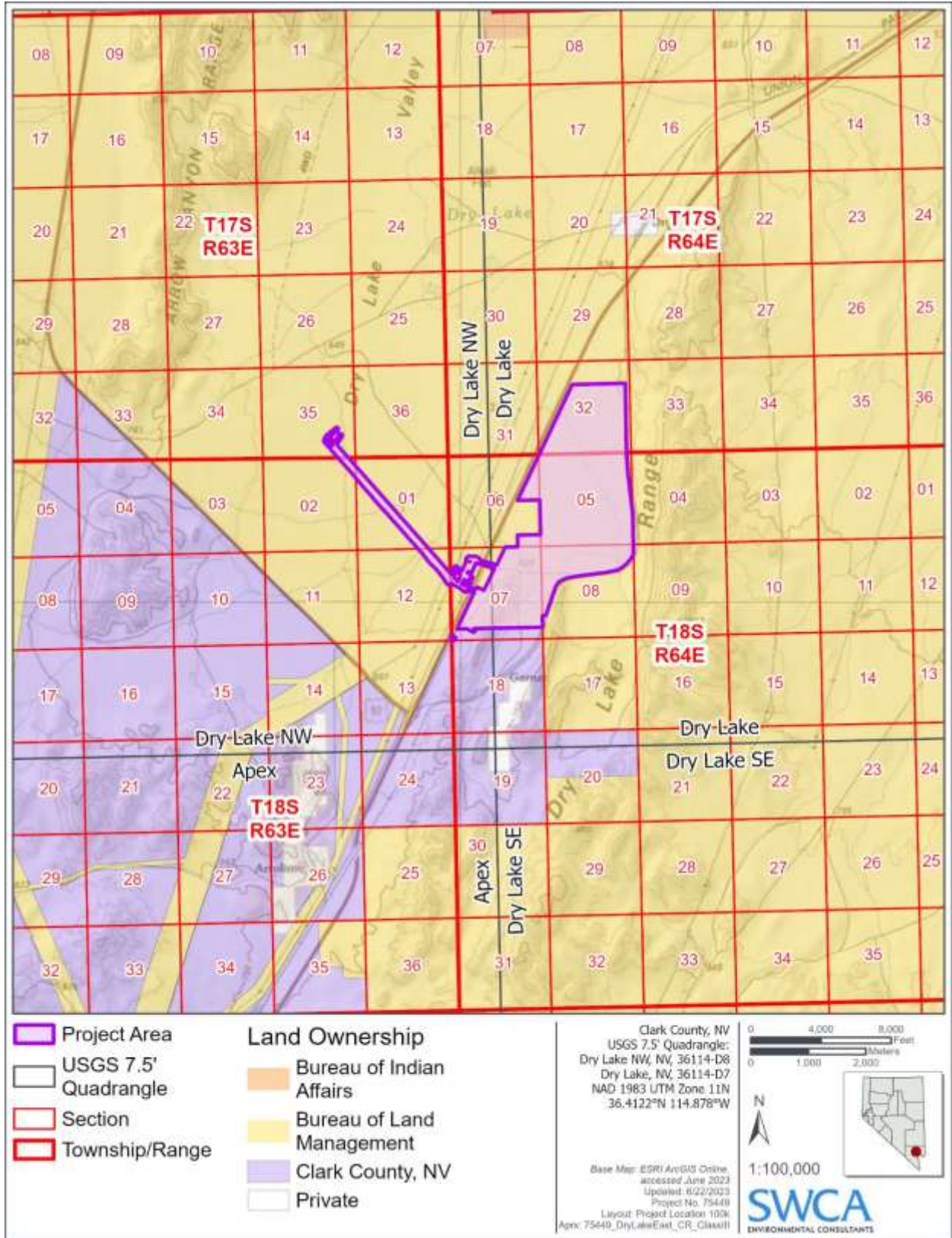


Figure 1. Project Location Map

MEMORANDUM OF AGREEMENT BETWEEN THE BUREAU OF LAND MANAGEMENT AND THE NEVADA STATE HISTORIC PRESERVATION OFFICER REGARDING THE DRY LAKE EAST SOLAR ENERGY PROJECT, CLARK COUNTY, NEVADA (2023-7402)

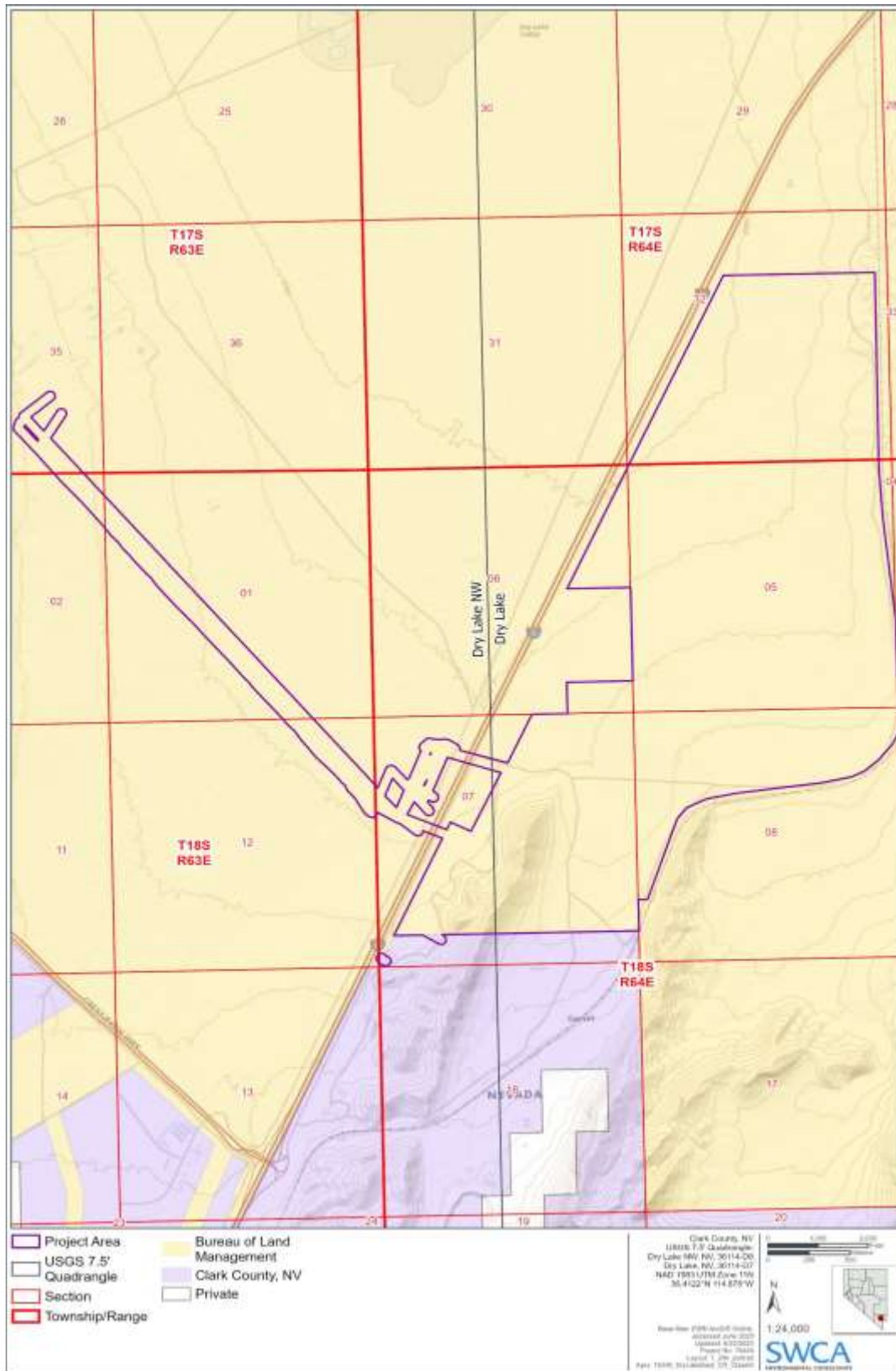


Figure 2. Physical Effects Area

MEMORANDUM OF AGREEMENT BETWEEN THE BUREAU OF LAND MANAGEMENT AND THE NEVADA STATE HISTORIC PRESERVATION OFFICER REGARDING THE DRY LAKE EAST SOLAR ENERGY PROJECT, CLARK COUNTY, NEVADA (2023-7402)

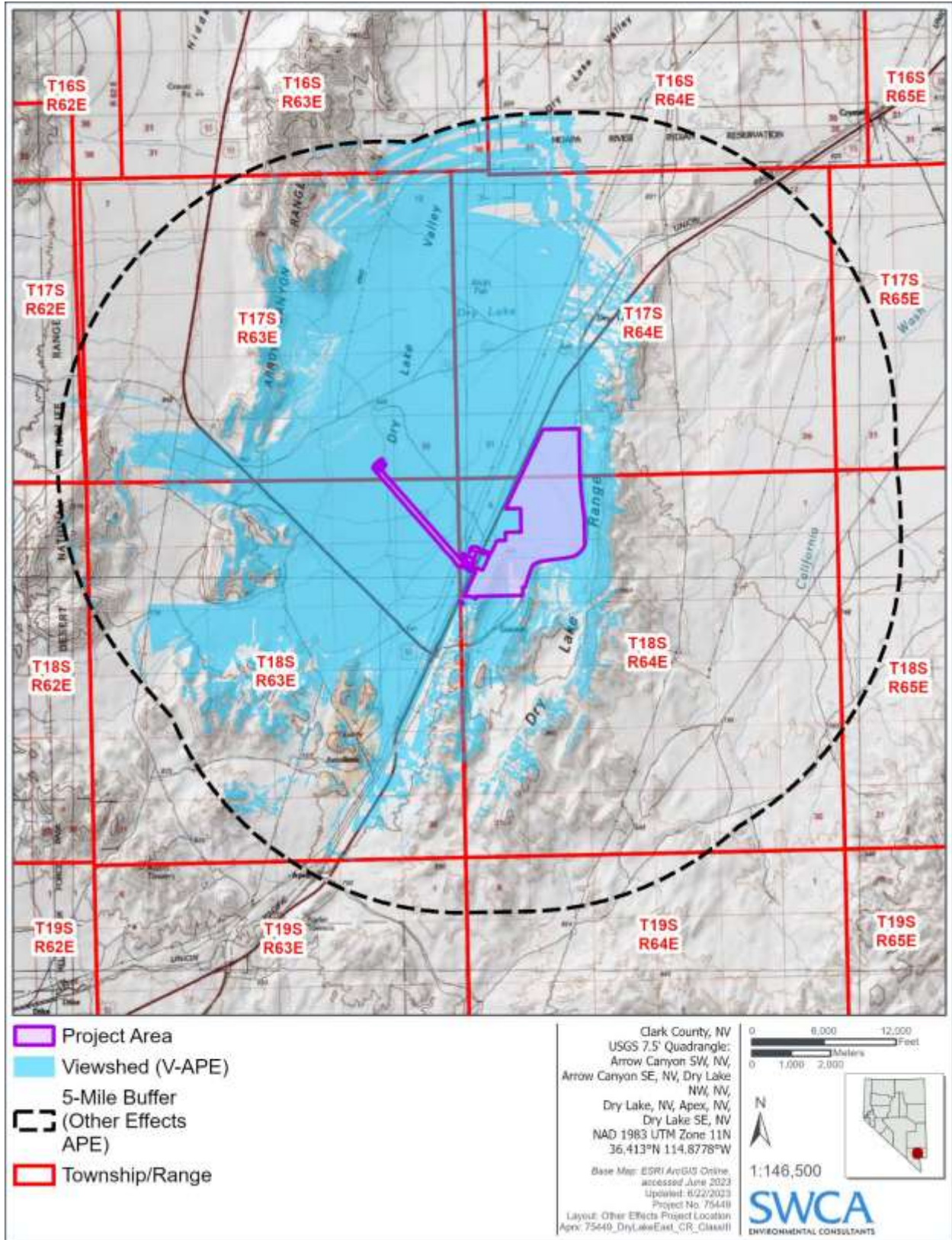


Figure 3. Visual, Auditory, Atmospheric Effects areas

**APPENDIX C:
CULTURAL RESOURCES WITHIN THE APE AND PROPOSED
TREATMENT/MANAGEMENT STRATEGY**

Table 1. All resources within project APE, determinations of eligibility, and findings of effect

Trinomial	Site Type	Age	Eligibility	Associated Project Component	Effects / Management
26CK415	Flaherty Rockshelter	Prehistoric	Eligible: D	Within VAA APE, outside proposed project area	None – Avoided
26CK1207	Rockshelter	Prehistoric	Unevaluated	Within proposed project area, outside proposed solar facility footprint	Avoided; No effect; Implement ESA Monitoring and Management Prescriptions
26CK2131	Railroad Industrial Site "Rock Igloos"	Historic	Eligible: A, C, and D	Within VAA APE, outside proposed project area	No
26CK3848	Old Spanish Trail	Historic	Listed: A and D (NRHP ID No. 01000863)	Physical APE: Gen-Tie Transmission Line Corridor. VAA APE.	Visual Effect– Implement HPTP. Physical effects avoided - Implement ESA Monitoring and Management Prescriptions.
26CK4189	Dubarton Shelter	Prehistoric	Eligible: D	Within VAA APE, outside proposed project area	None – Avoided
26CK4369/ 26CK4958	US Highway 91	Historic	Eligible (A, D)	Physical APE: Gen-Tie Transmission Line Corridor. VAA APE.	Visual Effect – Implement HPTP. Physical effects avoided - Implement ESA Monitoring and Management Prescriptions.
26CK4429	Union Pacific Railroad	Historic	Eligible (A, C and D)	Physical APE: Gen-Tie Transmission Line Corridor. VAA APE.	Visual Effect – Implement HPTP. Physical effects avoided - Implement ESA Monitoring and Management Prescriptions.
26CK4589	Lithic Scatter	Prehistoric	Eligible: D	Within VAA APE, outside proposed project area	None – Avoided
26CK4786	Shoofly Railroad Berm	Historic	Eligible (A, D)	Solar Facility Footprint	Adverse Effect – Implement HPTP
26CK4787	Garnet Construction Camp	Historic	Eligible (A, C, D)	Solar Facility Footprint	Adverse Effect – Implement HPTP
26CK5630	Railroad Construction Camp	Historic	Eligible: D	Within VAA APE, outside proposed project area	None – Avoided
26CK6115	Mormon Wagon Road (alternate alignment)	Historic	Eligible: A	Within VAA APE, outside proposed project area	Visual Effect – Implement HPTP. Physical effects avoided - Implement ESA Monitoring and Management Prescriptions.
26CK6122/ 26CK6814	Railroad camp	Historic	Eligible (A, C, D)	Solar Facility Footprint	Adverse Effect – Implement HPTP
26CK6190	Artifact Scatter/campsite	Historic	Eligible: D	Within VAA APE, outside proposed project area	None – Avoided
26CK6526	Temporary Camp	Prehistoric	Eligible: D	Within VAA APE, outside proposed project area	None – Avoided
26CK6527	Lithic Scatter	Prehistoric	Eligible: D	Within VAA APE, outside proposed project area	None – Avoided
26CK7781	Lithic reduction station	Prehistoric	Eligible: D	Within VAA APE, outside proposed project area	None – Avoided
26CK11468	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11469	Artifact Scatter and mining claim marker	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11470	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11471	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11472	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible

Trinomial	Site Type	Age	Eligibility	Associated Project Component	Effects / Management
26CK11445	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11446	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11447	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11476	Railroad Camp	Historic	Eligible (A, C, D)	Solar Facility Footprint	Adverse Effect – Implement HPTP
26CK11459	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11473	Road	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11460	Artifact Scatter with railroad materials	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11461	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11462	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11474	Road and Artifact Scatter with railroad materials	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11463	Artifact Scatter with railroad materials	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11464	Artifact Scatter with railroad materials	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11465	Artifact Scatter with railroad materials	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11451	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11452	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11453	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11454	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11455	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11456	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11457	Artifact Scatter with railroad materials	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11458	Artifact Scatter with railroad materials	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11475	Road	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11442	Artifact Scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11443	Artifact Scatter and mining claim marker	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11444	Artifact Scatter with railroad materials	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11448	Artifact scatter	Historic	Not eligible	Solar Facility Footprint	None – not eligible
26CK11450	Habitation Site with railroad materials	Historic	Eligible (A, C, D)	Solar Facility Footprint	Adverse Effect – Implement HPTP
26CK11449	Artifact Scatter with railroad materials	Historic	Not eligible	Solar Facility Footprint	None – not eligible
NRHP ID No. 74001145	Sheep Mountain Range Archeological District	Prehistoric	Listed: Unknown	Within VAA APE, outside proposed project area	None – Avoided

*highlighted properties will be adversely effected by the undertaking.

**APPENDIX D:
HISTORIC PROPERTIES TREATMENT PLAN
TO RESOLVE EFFECTS TO THE CRITERION D VALUES OF SITES 26CK4786,
26CK4787, 26CK6122/26CK6814, 26CK11450, AND 26CK11476**

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**APPENDIX E:
HISTORIC PROPERTIES TREATMENT PLAN
TO RESOLVE EFFECTS TO THE SETTING OF THE OLD SPANISH
TRAIL/MORMON ROAD (26CK3536/26CK3848/26CK6115); THE UPRR/SAN PEDRO,
LOS ANGELES, AND SALT LAKE RAILROAD (26CK4429/26CK5865); AND U.S.
HIGHWAY 91/ARROWHEAD TRAIL (26CK4369/26CK4958/26CK7793)**

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**APPENDIX F:
PLAN FOR ARCHAEOLOGICAL MONITORING, POST-REVIEW DISCOVERY AND
UNANTICIPATED EFFECTS**

TO BE DEVELOPED

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