

When recorded, please return to:  
Clerk of the Pinal County  
Board of Supervisors  
P.O. Box 827  
Florence, AZ 85132

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE PINAL COUNTY BOARD OF SUPERVISORS  
APPROVING THE ASSIGNMENT OF A RIGHT OF WAY EASEMENT FROM  
SUNZIA TRANSMISSION, LLC TO EL RIO SOL TRANSMISSION, LLC**

**WHEREAS**, Pinal County granted SunZia Transmission, LLC (“SunZia”) a Right of Way Easement dated April 6, 2022, recorded as fee # 2022-041274 with the Pinal County Recorder (“Easement”); and

**WHEREAS**, Section 23 of the Easement authorizes SunZia to assign the Easement with County approval if specified conditions are met; and

**WHEREAS**, SunZia has submitted a request for approval of an assignment of the Easement to El Rio Sol Transmission, LLC; and

**WHEREAS**, County staff has reviewed the request and found it to be in conformance with the requirements of Section 23 of the Easement; and

THEREFORE:

**BE IT RESOLVED**, that the PINAL BOARD OF SUPERVISORS accepts and approves the assignment of the Right of Way Easement dated April 6, 2022 and recorded as Fee # 2022-041274 with the Pinal County Recorder from SunZia Transmission, LLC to El Rio Sol Transmission, LLC.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2022, by the PINAL COUNTY BOARD OF SUPERVISORS.

\_\_\_\_\_  
Chairperson of the Board

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Kevin S. Costello-Pinal County Deputy Attorney

1812



OFFICIAL RECORDS OF  
PINAL COUNTY RECORDER  
Virginia Ross

DATE/TIME: 04/06/2022 1212  
FEE: \$0.00  
PAGES: 18  
FEE NUMBER: 2022-041274

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**RIGHT OF WAY EASEMENT AGREEMENT BETWEEN PINAL  
COUNTY AND SUNZIA TRANSMISSION, LLC**

DO NOT DISCARD THIS PAGE. THIS COVER PAGE IS RECORDED AS PART OF YOUR DOCUMENT.  
THE CERTIFICATE OF RECORDATION WITH THE FEE NUMBER IN THE UPPER RIGHT CORNER OF  
THIS DOCUMENT IN THE PINAL COUNTY RECORDER'S OFFICE.

**Right of Way Easement Agreement for the Installation of Transmission Line**

**WHEREAS**, this Right of Way Easement Agreement for the Installation of Transmission Line (the “Easement Agreement”) is entered into between Pinal County, a body politic and corporate and a political subdivision of the State of Arizona (hereinafter “Pinal County”), and SunZia Transmission, LLC (hereinafter “Grantee”); and

**WHEREAS**, Pinal County is authorized by A.R.S. section 11-251 to regulate and manage the public rights of way within its jurisdiction and to grant easements across county property for public purposes to a utility as defined in A.R.S. Section 40-491; and

**WHEREAS**, Grantee, a limited liability company, is a utility as defined in A.R.S. Section 40-491 and wishes to construct, install, own, operate, maintain, repair, and replace a private, high voltage transmission line, communication line, and related facilities (the “Transmission Line”) under, over and through certain rights of way within Pinal County as described in Exhibit A (the “Rights of Way”) for public purposes; and

**WHEREAS**, Grantee desires an easement for the continued use and access across such Rights of Way within Pinal County to install the Transmission Line for public purposes, as described in Exhibit A to this Easement Agreement; and

**WHEREAS**, it being determined by the Board of Supervisors that the granting of this Easement is authorized by law and in the best interests of Pinal County and the inhabitants thereof;

**NOW, THEREFORE**, County and Grantee agree as follows:

**Section 1: GRANT OF EASEMENT**

Grantee is hereby authorized and empowered, on a non-exclusive basis, and is here granted and conveyed an easement, to use the Rights of Way under the terms and conditions set forth herein, and as identified in Exhibit A which is attached to this Easement Agreement and incorporated herein by this reference, for the purpose of constructing, installing, owning, operating, repairing, replacing, and maintaining the Transmission Line, including the facilities as described in Exhibit A within, along, and across the Rights of Way, including the right to overhang (aerially) the Rights of Way described in Exhibit A in compliance with the applicable standards in the National Electric Safety Code (NESC).

**Section 2: TERM**

This Easement Agreement shall be effective as of the Effective Date (defined below) for an initial term of fifty (50) years (the “Initial Term”), and unless written notice of termination is given by Grantee to Pinal County at least six (6) months before the end of the Initial Term or any Renewal Term, the Term shall automatically renew for twenty-five (25) year renewal terms (each a “Renewal Term, and the Original Term and all Renewal Terms, the “Term”), unless otherwise terminated pursuant to the provisions of Section 24, Section 26, or Section 30.

**Section 3: PAYMENT**

Within 30 days of the Effective Date of this Easement Agreement Grantee shall pay Pinal County One Hundred forty One Thousand Eight Hundred fifty Six Dollars \$141,856.00, for the Initial Term. The amount due for any Renewal Term shall be established by the Parties in advance of any Renewal Term. At least 6 months prior to the expiration of the Initial Term or any Renewal Term, Sun Zia will retain an independent appraiser licensed in Arizona from a list of approved appraisers provided by the County to appraise the market value of the twenty-five (25) year easement to be granted to SunZia hereunder for the Renewal Term (the "Appraised Value"). Sun Zia shall pay the cost of the appraisal. The payment for the Renewal Term shall be the Appraised Value as determined by the appraisal and shall be paid prior to the commencement of the Renewal Term (or within ten (10) days of the delivery of the appraisal if the tenth day is after the commencement of the Renewal Term).

**Section 4: REGULATION OF PINAL COUNTY RIGHTS OF WAY**

All rights hereunder are granted under the express condition that Pinal County shall have the power at any time to authorize the use of the Rights of Way for other uses, subject to such uses not interfering with the rights and interests of Grantee hereunder. In the event Pinal County seeks to allow other uses of the Rights of Way, Pinal County shall notify Grantee of such use and shall cooperate with Grantee in determining the plans and specifications of such other uses so as not to interfere with Grantee's rights and uses hereunder. If such use to be made by another party (the "Third Party User"), Pinal County shall require that any such use by the Third Party User shall not cause or permit any damage, disturbance, or modification or alteration to the Transmission Line, including all of Grantee's facilities located in the Rights of Way. If the Third Party User causes or permits any such damage, disturbance, or unnecessary alteration or modification, the Third Party User shall be responsible for all costs of Grantee to restore the damaged, disturbed, altered, or modified facilities to the condition in which they existed before being damaged, disturbed, modified or altered. The restoration of facilities shall be initiated promptly and completed expeditiously by Grantee.

**Section 5: SUPERIOR RIGHTS**

The rights of Pinal County in and to the use of all public rights of way located within the boundaries of Pinal County are and forever shall be paramount and superior to the rights of Grantee, except as set forth in this Easement Agreement.

**Section 6: ALTERATION OF PUBLIC RIGHTS OF WAY**

Nothing in this Easement Agreement shall be construed so as to prevent Pinal County from altering, improving, adjusting, repairing, or maintaining the Pinal County Facilities (as defined below) within the public rights of way, and for that purpose, if necessary, to require Grantee to adjust, remove, replace, or relocate Grantee's facilities(as provided in Section 8); provided that Pinal County will attempt to avoid requiring removal or relocation of any structures of the Grantee

Transmission Line, once constructed. "Pinal County Facilities" shall mean any physical object or improvement owned, possessed, made, installed, maintained, or constructed by Pinal County or others at the request of Pinal County, including all paving, highway, transportation, flood control, or other Pinal County-owned structures located within Pinal County rights of way.

#### **Section 7: NONEXCLUSIVE USE**

Nothing in this Easement Agreement shall be construed to grant Grantee an exclusive right to use the public rights of way. Grantee's facilities shall be erected, adjusted, installed, replaced, removed, relocated, and maintained in a manner that will not interfere with the reasonable use of the public rights of way by the public, Pinal County, or any other franchisee or Grantee. The location of Grantee's facilities in the public rights of way shall not create or establish a vested interest in the rights of way.

#### **Section 8: RELOCATION**

In the event that Pinal County determines in its reasonable discretion that no other suitable alternatives are available for the exercise of its public purposes than to require Grantee to adjust, remove, replace, or relocate the Transmission Line (a "Relocation"), Grantee will make such Relocation, as needed. If a Relocation is required, Pinal County shall use its best efforts, including the exercise of its power of eminent domain, to obtain land rights adjacent to or in close proximity of the Rights of Way and over which a valid easement across such land rights can be conveyed to Grantee by Pinal County that would allow for Grantee to make the Relocation and to construct, install, own, operate, maintain, repair, and replace such relocated Transmission Line (the "Relocated Facilities"). In addition, prior to requiring a Relocation, Pinal County shall allow Grantee the necessary time under the Activity Schedule (defined below) to (i) construct and install the Relocated Facilities, (ii) to transfer load from the existing Transmission Line to the Relocated Facilities as necessary to minimize the amount of time of any disruption of transmission of power along the Transmission Line, and (iii) obtain all permits required from any applicable jurisdiction for the Relocated Facilities. The Relocation by Grantee shall be conducted in accordance with an activity schedule determined by Pinal County and Grantee (the "Activity Schedule"), prior to the scheduled activity start date. If the Activity Schedule is unacceptable to Grantee or if Grantee finds it necessary to plead financial hardship regarding the cost of relocating its facilities, Grantee may appeal to the Pinal County Board of Supervisors. If the Relocated Facilities are not adjusted, removed, replaced, or relocated within the time period allotted by the Activity Schedule (as may be revised or adjusted by an appeal, if applicable), Pinal County may, at its discretion, adjust or relocate Grantee's facilities at Grantee's cost. Grantee hereby agrees to be liable for all costs incurred by Pinal County for the Relocation necessitated by Pinal County as set forth herein, including overhead and maintenance costs and an administrative surcharge in the amount of fifteen percent of the total cost attributed to the adjustment or relocation of Grantee's facilities. In the event that Pinal County incurs such costs, Pinal County shall submit a bill to Grantee for the incurred costs, and Grantee shall pay Pinal County the invoiced amount within ninety (90) calendar days of receipt of the invoice. Grantee may contest the propriety of such invoices by filing a written appeal with the Pinal County Board of Supervisors, whose decision with respect thereto shall be final.

## **Section 9: UNDERGROUNDING**

The parties acknowledge that the Transmission Line will be above ground, except for foundations and grounding wires, and that during the Term, Pinal County will not require Grantee to place the Transmission Line underground.

## **Section 10: PERFORMANCE OF WORK**

Prior to beginning any activity in the Rights of Way, Grantee shall obtain all required permits from Pinal County and any other applicable jurisdiction for the activity. The work required by Grantee to design, construct, reconstruct, pothole for, design, adjust, relocate, replace, or repair Grantee's facilities shall be Grantee's sole responsibility. The cost of any delay to Pinal County's projects caused by Grantee's failure to complete its work in accordance with Pinal County's Activity Schedule shall be Grantee's sole responsibility provided that Pinal County shall have provided Grantee with reasonable advance notice of the need to take such action and a reasonable amount of time allowed to perform the necessary activities. In the event Pinal County incurs such costs, Pinal County shall submit a bill to Grantee for the incurred costs, and Grantee shall pay Pinal County the invoiced amount within ninety (90) calendar days of receipt of the invoice. If the invoice is not paid by Grantee in a timely manner, all rights granted to Grantee under this Easement Agreement shall be suspended, and no permits will be issued to Grantee for any work within Pinal County rights of way until the invoiced costs are paid in full to Pinal County. Grantee may contest the propriety of such costs by filing a written appeal with the Pinal County Board of Supervisors, whose decision with respect thereto shall be final.

## **Section 11: LOCATION OF FACILITIES**

As a condition of this Easement Agreement, Grantee hereby agrees to have and maintain precise, up-to-date maps of Grantee's facilities located in the Rights of Way upon construction thereof, and to make this information available to Pinal County within thirty (30) calendar days of receiving a written request from Pinal County. Beginning on the effective date of this Easement Agreement, Grantee shall maintain precise and verifiable horizontal and vertical location information of the Rights of Way tied to an accepted Pinal County datum and provide such information to Pinal County within thirty (30) calendar days of receiving written notice from Pinal County. In the event Grantee is unable to provide the location information to Pinal County within the allotted time frame, Pinal County may, at its discretion, locate Grantee's facilities and Grantee shall be liable for Pinal County's costs incurred in locating Grantee's facilities.

## **Section 12: WORK IN THE RIGHTS-OF-WAY**

11.1 *Permits required.* Prior to performing any work within the Rights-of-Way, Grantee shall obtain a permit from Pinal County in accordance with Title 7 of the Pinal County Development Services Code.

11.2 *Damage to other facilities.* In the construction, adjustment, removal, relocation, repair, operation, and maintenance of its facilities, Grantee shall avoid causing or permitting any damage, disturbance, or unnecessary modification or alteration to Pinal

County facilities including pavement, or to the facilities of others located in Pinal County rights of way. If Grantee causes or permits any such damage, disturbance, or unnecessary alteration or modification, Grantee, at its sole expense and in a manner approved by the Pinal County Engineer, shall restore the damaged, disturbed, altered, or modified facilities to the condition in which they existed before being damaged, disturbed, modified, or altered. Grantee also shall be liable to owners of said facilities for any other losses or expenses that may accrue because of said damage, disturbance, modification, or alteration. The restoration of facilities shall be initiated promptly and completed expeditiously by Grantee, who shall give priority to the restoration, repair, or replacement of such facilities over all non-emergency activities of Grantee.

11.3 *Damage to vegetation.* In the construction, adjustment, removal, relocation, repair, operation, and maintenance of its facilities, Grantee shall use all necessary care to avoid any unnecessary damage to or disturbance of existing vegetation in the public rights of way. If Grantee causes or permits any damage or disturbance to vegetation, Grantee shall re-vegetate the rights of way at its sole expense and in accordance with all Pinal County regulations then in effect.

11.4 *Adjacent properties.* Grantee shall provide prior written notice to the owners or residents of adjoining properties of any activity of Grantee which may temporarily interfere with access to said adjoining property. Grantee shall maintain access or provide alternate access (if due to safety concerns) to adjoining properties during all construction activities or other operations, unless the requirement of access is waived in writing by the owners and residents of the affected properties. If an emergency requires activity without written notice, Grantee shall use its best efforts to provide timely actual notice to the owners and residents of adjoining properties.

### **Section 13: DESIGN AND LOCATION OF FACILITIES**

12.1 *Injury to persons and property.* Grantee shall use reasonable care at all times to avoid damage or injury to persons and property during the construction, adjustment, removal, relocation, repair, operation, and maintenance of Grantee's facilities.

12.2 *Location and construction of facilities.* The location and construction of Grantee's facilities in public rights of way shall conform to Pinal County standards and guidelines then in effect and provided to Grantee, in order not to interfere with a planned future use of the public rights of way by Pinal County. Grantee agrees to work with Pinal County regarding the placement of facilities within the easement and the need for guardrails or other safety measures.

12.3 *Interference with other uses.* Grantee's facilities shall be located in a manner designed to cause the least amount of interference with the public's existing or future use (as provided by Pinal County to Grantee) of roads, streets, alleys, and other public rights of way, and in such a way as will minimize interference with the rights of access to adjacent property owners.

12.4 *Neighboring property owners.* Grantee shall be responsible for notifying owners or residents of adjoining properties in writing about permanent or temporary above- or below-ground facilities to be constructed in Pinal County rights of way. Grantee shall make every commercially reasonable effort to resolve the concerns of property owners and residents regarding the construction of Grantee's facilities and access to owners or residents of adjoining properties.

#### **Section 14: CONSTRUCTION SAFETY**

Any opening or obstruction in the public rights of way then in use caused by Grantee during the course of Grantee's activities in the rights of way shall be guarded and protected at all times by safety barriers erected by Grantee, which safety barriers shall be designated clearly by warning lights during periods of dusk and darkness. Any work performed by Grantee in or adjacent to a public roadway then open for travel shall be signed and marked properly by Grantee with warning and directional devices in accordance with all applicable state and local traffic regulations, and in accordance with the Arizona Department of Transportation's Traffic Control Manual for Highway Construction and Maintenance and the Manual on Uniform Traffic Control Devices for Streets and Highways.

#### **Section 15: DRAINAGE**

During construction or excavation in the public rights of way, Grantee shall provide proper drainage so that the public rights of way will be free from standing surface water and adequately drained so as not to cause flood or erosion damage to the facilities of Grantee or surrounding property, Grantee will provide to Pinal County the storm water pollution prevention plan that Grantee will follow on the Right of Way for Pinal County's review and comment. For projects with a material impact upon local drainage patterns, Grantee may be required by Pinal County to submit drainage engineering data and design plans to Pinal County for review and approval prior to the issuance of any Rights-of-Way Use Permit by Pinal County.

#### **Section 16: ISSUANCE OF PERMIT NOT APPROVAL OF VIOLATION**

Pinal County's review, approval, or acceptance of plans or specifications or issuance of a permit for the installation, construction, or location of a facility by Grantee shall not be construed to be an authorization for or approval of a violation of any federal, state, or local law or regulation, or of any industry standard, pertaining to the location or construction of a utility facility in public rights of way.

#### **Section 17: COUNTY INSPECTION**

Pinal County, if it deems necessary, has the right to inspect any work by Grantee in the Right of Way or other county roads being crossed by the Transmission Line to ensure proper performance of the terms of this Easement Agreement and conformance with any applicable federal, state, or local laws, ordinances, and regulations. Pinal County may require Grantee to pay a reasonable and uniform fee to cover the actual costs of inspections performed by Pinal County or its contractor under this provision.

## **Section 18: ABANDONMENT OF FACILITIES**

Abandonment in place of any of Grantee's facilities located within Pinal County rights of way may occur only upon written approval from Pinal County.

## **Section 19: LIABILITY AND INDEMNITY**

Grantee acknowledges its sole responsibility for any of its facilities and/or equipment installed in the public rights of way, and for any liability arising from any activities Grantee performs within the public rights of way. Grantee agrees to indemnify, hold harmless, and defend Pinal County and its officials, agents, servants, and employees against any and all claims for injuries to persons or damage to property, whether intentional, negligent, or otherwise, arising out of Grantee's work in the public rights of way, or due to the existence of Grantee's facilities and/or equipment in the public rights of way, or in any way related to Grantee's exercise of its rights under this Easement Agreement. Neither the issuance of a Pinal County permit for installation or location of a facility or equipment, nor Pinal County approval of such installation or location, nor the failure of Pinal County to direct Grantee to take any precautions, to make any changes, or to refrain from doing anything shall excuse Grantee of its responsibilities hereunder to Pinal County or others in the case of any injury to persons or damage to property.

If Pinal County is sued in any court by any person, firm, association, or corporation to recover damages for injuries to person or property on account of the installation, repair, operation, and/or maintenance of Grantee's facilities or equipment, Grantee shall defend such suits and pay any resulting judgments, and shall, at the option of Pinal County be made a party to any such court proceeding.

## **Section 20: PINAL COUNTY PARTICIPATION IN LEGAL ACTIONS**

Pinal County shall have the rights at all times to take part in any suit or action instituted by or against Pinal County in which any judgment or decree can be rendered, which might result in the foreclosure of any lien on any Grantee property situated within public rights of way, or which could affect the rights, powers, or duties of Grantee to do or not do anything that this Easement Agreement might require Grantee to do or not to do, and also to take such steps as Pinal County may deem appropriate to protect the interests of Pinal County or the public. Pinal County shall have the right to intervene in, and shall cooperate with Grantee in, any suit, action, or proceeding by any person or persons, firm, or corporation seeking to enjoin, restrain, or in any manner interfere with Grantee in the performance or observance by it of any of the terms or conditions of this Easement Agreement, or of any regulation, notice, or direction of Pinal County in such connection, or which involves or might involve the constitutionality, validity, or enforcement of this Easement Agreement. Pinal County also may move for, and cooperate with Grantee in moving for, dissolution of any such injunction or restraining order or take any other appropriate step, in any such suit, action or proceeding that it may deem necessary or advisable in order to protect its interests.

## **Section 21: COMPLIANCE WITH EASEMENT AGREEMENT CONDITIONS AND**

## **ORDINANCES**

Grantee agrees to conform to, abide by, and perform all the conditions, provisions, requirements, and limitations in this Easement Agreement. Grantee shall be subject to all Pinal County ordinances now in force or hereafter lawfully adopted (to the extent not in contravention of the rights of Grantee hereunder), including all ordinances relating to the use of public rights of way by utilities. Grantee agrees that it will not assert any claim against Pinal County that the provisions of this Easement Agreement or any applicable Pinal County ordinance or regulation in force at the time of execution of this Easement Agreement are unreasonable, arbitrary, or void.

## **Section 22: NONEXCLUSIVE EASEMENT**

This Easement Agreement and the privileges granted herein shall not be exclusive, the Pinal County Board of Supervisors expressly reserves the right to grant, at any time, similar franchises, licenses, and privileges over the same highways, roads, streets, alleys, and thoroughfares, or any thereof, to any other person, firm, or corporation, subject to the provisions of Section 4.

### **Section 23: ASSIGNMENT**

Grantee may assign, convey, transfer, divide, or partition all or any portion of this Easement Agreement to one or more persons or entities with respect to any portion of its interests under this Easement Agreement, and may sell, assign, lease or transfer all or any part of any Transmission Line facilities that it may install on the Rights of Way (each an "Assignment"), only after Pinal County's written consent, which shall not be unreasonably withheld, delayed or denied, provided that in respect of any such assignment, the assignee agrees in writing (in form satisfactory to Pinal County acting reasonably) to be bound by the terms and conditions of this Easement Agreement and, in addition, Grantee certifies in favor of Pinal County that such assignee is (i) a utility that has substantially similar experience as Grantee, but in no event fewer than five (5) years' experience, in the development, maintenance and operation of high voltage electrical transmission line facilities and has substantially similar creditworthiness as Grantee, but in no event less than Fifty Million Dollars (\$50 million) in net liquidity as demonstrated by audited financial statements provided to Pinal County (a "Qualified Assignee"). Grantee shall provide to Pinal County, subject to a confidentiality and non-disclosure agreement between the bidders seeking the Assignment (the "Bidders," whether one or more) and Pinal County (if such an agreement is required by the Bidders) in form and substance acceptable to the Bidders and Pinal County, the identity of the Bidders, evidence of the aforementioned experience of the Bidders and such audited financial statements of the Bidders at least ninety (90) days in advance of any desired Assignment. Upon an assignment by Grantee, the Qualified Assignee shall be entitled to all rights and benefits and be subject to all obligations and responsibilities, pursuant to this Easement Agreement, and Grantee's interest in, and any future liability under the Easement Agreement, shall terminate with respect to the rights assigned, except for liabilities accruing prior to the date of such assignment, or unless the certification provided by Grantee with respect to the Qualified Assignee proves to be false in any material respect as of the date given. Grantee, any assignee, co-tenant, or any holder of a sub-easement or license hereof (herein, an "Obligor") may at any time mortgage or pledge to any entity (herein, a "Lender") all or any part of the Obligor's interest under this Easement Agreement or such sub-easement or license without the consent of Pinal County, and, upon foreclosure by a Lender (or receipt of a deed in lieu of foreclosure or other conveyance), such Lender will succeed to all of the rights and interests of such Obligor hereunder. Should an Obligor mortgage any of its interest as provided in this Section 23, Obligor and Pinal County expressly agree between themselves and for the benefit of any Lenders who have notified Pinal County in writing of their name and address (herein a "Notifying Lender") as follows:

A. They will not amend or modify, or take any action causing, consenting to, or accepting the amendment or modification of this Easement Agreement, if such amendment or modification would reduce the rights or remedies of any Notifying Lender hereunder or impair or reduce the security for any lien held by such Notifying Lender.

B. Any Notifying Lender shall have the right to do any act or thing required to be performed by Obligor under this Easement Agreement, and any such act or thing performed by a Notifying Lender shall be as effective to prevent a default under this Easement Agreement and/or a forfeiture of any of Obligor's rights under this Easement Agreement as if done by Obligor itself.

C. The right of a Lender to receive notices and to cure Obligor's defaults pursuant to the provisions of this Section 6 shall be available only to the Notifying Lenders. No default which requires the giving of notice to Obligor shall be effective unless a like notice is given to all Notifying Lenders. If Pinal County becomes entitled to terminate this Easement Agreement due to an uncured default by Obligor, Pinal County will not terminate this Easement Agreement unless it has first given written notice of such uncured default and of its intent to terminate this Easement Agreement to each Notifying Lender and has given each Notifying Lender at least thirty (30) days after the expiration of the cure period which this Easement Agreement provides to Obligor for curing such default, to cure the default to prevent such termination of this Easement Agreement. Furthermore, if within such thirty (30) day period a Notifying Lender notifies Pinal County that it must foreclose on Obligor's interest or otherwise take possession of Obligor's interest under this Easement Agreement in order to cure the default, Pinal County shall not terminate this Easement Agreement and shall permit such Notifying Lender a reasonable period of time as may be necessary for such Notifying Lender, with the exercise of due diligence, to foreclose or acquire Obligor's interest under this Easement Agreement and to perform or cause to be performed all of the covenants and agreements to be performed and observed by Obligor, but in no event shall such period be longer than one hundred and eighty (180) days. In the event a Notifying Lender shall elect to exercise its rights hereunder, such Notifying Lender shall have no personal liability to Pinal County, and the sole recourse of the Pinal County in seeking enforcement of its obligations under this Easement Agreement or any new easement entered into pursuant to clause (D) below shall be to such Notifying Lender's interest in this Easement Agreement and the Rights of Way. Upon the sale or other transfer of any interest in the rights granted hereunder by any Notifying Lender, which shall be subject to the same limitations on sale or assignment imposed on Grantee, its successors and assigns, such Notifying Lender shall have no further duties or obligations hereunder.

D. In case of the termination of this Easement Agreement as a result of any default or the bankruptcy, insolvency, or appointment of a receiver in bankruptcy for Obligor, Pinal County shall give prompt notice (the "Insolvency Notice") to the Notifying Lenders. Pinal County shall, upon written request of the first priority Notifying Lender, made within forty-five (45) days after receipt by the Notifying Lender of the Insolvency Notice, enter into a new easement agreement with such Notifying Lender, or its designee, within twenty (20) days after the receipt of such request from the Notifying Lender. Such new easement agreement shall be effective as of the date of the termination of this Easement Agreement by reason of default by Obligor and shall be on the same terms, covenants and conditions as contained in this Easement Agreement. Upon the execution of any such new easement agreement, the Notifying Lender shall (i) pay Pinal County any unpaid amounts under this Easement Agreement which are due Pinal County from Obligor as of the date of termination, and (ii) pay Pinal County any and all amounts due under the new easement agreement from the effective date thereof to the date of execution and delivery of the new easement agreement.

E. Pinal County shall, at Grantee's or a Notifying Lender's request, provide to Grantee and such Notifying Lender confirmation that such Notifying Lender is a "Notifying Lender" for purposes of this Easement Agreement, a consent to or acknowledgment of the

Notifying Lender's mortgage or other lien, and estoppel certificates as Grantee or the Notifying Lender may reasonably request. Pinal County shall duly execute and return same to Grantee and/or Notifying Lender within thirty (30) days after receipt of such request, and Grantee shall reimburse Pinal County for its costs and expenses (including without limitation reasonable attorneys' fees) associated with same.

Except as otherwise permitted above, Grantee agrees that neither this Easement Agreement nor any of Grantee's facilities in Pinal County rights of way shall be sold, assigned, or transferred without the prior written approval of the Pinal County Board of Supervisors. In such instance, the decision to approve or deny such a sale, assignment, or transfer of this Easement Agreement shall be within the sole discretion of the Pinal County Board of Supervisors, and the Board may deny Grantee's request to sell, assign or transfer the Easement Agreement if such denial is in the best interests of Pinal County.

#### **Section 24: DEFAULT BY GRANTEE**

If Grantee defaults under this Easement Agreement, after thirty (30) days' Notice and the defaulting Party's failure to cure, the non-defaulting Party shall have all rights and remedies available at law, in equity, pursuant to this Easement Agreement or otherwise, including but not limited to the right to recover damages, the right of specific performance, and the right to obtain an injunction; provided, however, that Pinal County shall not have the right to terminate this Easement Agreement, except as follows: (i) in the event of a default in the payment of any amount hereunder, and the failure of Grantee to cure such default within thirty (30) days of written notice of default from Pinal County to Grantee, or (ii) the failure or omission by Grantee to observe, keep or perform any of the other terms, agreements or conditions set forth in this Easement Agreement, and such failure or omission has continued for thirty (30) days after Pinal County has delivered a written notice of default to Grantee (or such longer period required to cure such failure or omission, not to exceed one hundred eighty (180) days, if such failure or omission cannot reasonably be cured within such thirty (30) day period, provided that Grantee commences its efforts to cure within such 30-day period and diligently continues such efforts until failure or omission is cured). If Pinal County becomes entitled to terminate this Easement Agreement due to an uncured default by Grantee, Pinal County will not terminate this Easement Agreement unless it has first given written notice of such uncured default and of its intent to terminate this Easement Agreement to a Notifying Lender as set forth above. Upon the occurrence of a default under this Easement Agreement, Grantee shall be liable to Pinal County for all costs and expenses including but not limited to attorneys' fees incurred by the non-defaulting Party as a result of the default. In the event of Pinal County's termination of the Easement Agreement following an uncured default by Grantee as permitted above, within thirty (30) days following the effective date of such termination Grantee shall commence removal of all equipment, supplies and improvements from the Rights of Way, and shall restore the Rights of Way to the condition it was in as of the Effective Date, subject to the reasonable satisfaction of Pinal County.

#### **Section 25: DEFAULT BY PINAL COUNTY**

If Pinal County defaults under this Easement Agreement, after thirty (30) days' written notice and Pinal County's failure to cure, Grantee shall have all rights and remedies permitted by law,

including but not limited to, if permitted by law, specific performance, and the right to obtain an injunction.

**Section 26: ABANDONMENT BY GRANTEE**

If after completion of the Transmission Line, subject to Force Majeure (and any such period of Force Majeure will not be counted in the period specified herein), Grantee ceases to use the Transmission Line for transmission of electricity for a continuous period of twenty-four (24) months, Pinal County shall have the right to provide written notice to Grantee of intention to terminate the Easement Agreement, and if Grantee does not commence use of the Transmission Line for the transmission of electricity within ninety (90) days after such written notice, the Easement Agreement shall terminate, and Grantee shall commence removal of all equipment, supplies and improvements from the Rights of Way within thirty (30) days following the effective date of such termination, and shall restore the Rights of Way to the condition it was in as of the Effective Date, subject to the reasonable satisfaction of Pinal County.

**Section 27: FORCE MAJEURE**

Notwithstanding any other provision of this Easement Agreement, if either Party's performance of this Easement Agreement or of any obligation hereunder is interfered with, delayed, restricted or prevented, in whole or in part, by reason of an event of Force Majeure, such Party shall, upon giving notice to the other Party, be excused from such performance (but Grantee shall not be excused from its obligation to pay any amounts payable to Pinal County) to the extent and for the duration of such interference, delay, restriction or prevention, and the term of this Easement Agreement and any other time periods set forth herein shall continue and be extended for a like period of time. "Force Majeure" means any act or condition beyond the reasonable control of the affected Party, whether or not similar to the matters or conditions herein specifically enumerated, and includes: acts of God or the elements (including fire, earthquake, explosion, flood, tornado, high wind, ice, pandemic, epidemic or any other casualty or accident); strikes, lock outs or other labor disputes; unforeseeable delays in transportation; an unforeseeable inability to secure labor or materials in the open market; or war, terrorism, sabotage, civil strife or other violence; actions or failures to act by the other Party.

**Section 28: CONTRACT INFORMATION**

All notices or correspondence concerning this Easement Agreement shall be provided in writing to:

<p>If to Company:</p> <p>SunZia Transmission, LLC 3610 N. 44th Street Suite 250 Phoenix, AZ 85018 Attn: David Getts Phone: 602 808 2004 Fax: 602 808 2099</p>	<p>If to Pinal County:</p> <p>Pinal County Public Works P.O. Box 727 Florence, Arizona 85132 (520) 866-6324</p>
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Any change in any of the foregoing contact information for either party shall be made in writing to the other party.

**Section 29: EFFECTIVE DATE**

This Easement Agreement shall be effective upon the recording of a fully executed original hereof with the Pinal County Recorder's Office (the "Effective Date").

**Section 30: TERMINATION BY GRANTEE**

This Easement Agreement may be terminated by Grantee upon one hundred and eighty (180) day's written notice to Pinal County, and within thirty (30) days following the effective date of such termination, Grantee shall commence removal of all equipment, supplies and improvements from the Rights of Way, and shall restore the Rights of Way to the condition it was in as of the Effective Date, subject to the reasonable satisfaction of Pinal County.

**Section 31: COMPLIANCE WITH LAWS**

The parties shall comply with all applicable federal, state, and local laws, rules, regulations, standards, and executive orders, without limitation to those designated within this Easement Agreement.

**Section 32: A.R.S. § 38-511**

This Easement Agreement may be cancelled pursuant to the provisions of A.R.S. § 38-511, if applicable, subject to the protections for a Lender as set forth in A.R.S.37-289, if applicable.

**Section 33: CHOICE OF LAW**

This Agreement shall be governed by and construed under the laws of the state of Arizona, and any litigation shall take place only in Pinal County, Arizona.

IN WITNESS WHEREOF, Grantee has caused this Easement Agreement to be executed by its Chief Financial Officer, and Pinal County has caused this Easement Agreement to be executed by the Chair of its Board of Supervisors and attested to by its Clerk.

GRANTEE:

SunZia Transmission, LLC,  
a Delaware limited liability company

By: David H. Getts  
David Getts  
Manager

State of Arizona        )  
                                  )    ss  
County of Pinal        )

The foregoing instrument was acknowledged before me on the 15 day of March, 2022 by David Getts, the Manager for SunZia Transmission, LLC, a Delaware limited liability company, on behalf of said company.



Jessica Munoz  
Notary Public

My Commission Expires:  
07-31-2022

PINAL COUNTY, ARIZONA

Chairman, Pinal County Board of Supervisors

Date: 02/23/2022

ATTEST:

Clerk, Pinal County Board of Supervisors



Approved as to form:

Deputy County Attorney

EXHIBIT A

**EXHIBIT A**

**RIGHT OF WAY EASEMENT AGREEMENT BETWEEN PINAL COUNTY AND  
SUNZIA TRANSMISSION, LLC.**

Exhibit A; Right of way easement agreement between Pinal County and SunZia Transmission, LLC.

- Pinal County Clerk of the Board Department
- Pinal County Public Works Department



OFFICIAL RECORDS OF  
PINAL COUNTY RECORDER  
Virginia Ross

DATE/TIME: 07/08/2022 1224

FEE: \$30.00

PAGES: 3

FEE NUMBER: 2022-077437

When recorded mail to:  
Attn: Alexiss Adams  
Southwestern Power Group  
3610 n 44<sup>th</sup> St  
Phoenix, AZ 85018

(The above space reserved for recording information)

ASSIGNMENT BY GRANTEE OF RIGHT OF WAY EASEMENT AGREEMENT  
FOR THE INSTALLATION OF TRANSMISSION LINE

DOCUMENT TITLE

DO NOT DISCARD THIS PAGE. THIS COVER PAGE IS RECORDED AS PART  
OF YOUR DOCUMENT. THE CERTIFICATE OF RECORDATION WITH THE  
FEE NUMBER IN THE UPPER RIGHT CORNER IS THE PERMANENT  
REFERENCE NUMBER OF THIS DOCUMENT IN THE PINAL COUNTY  
RECORDER'S OFFICE.

**ASSIGNMENT BY GRANTEE OF RIGHT OF WAY EASEMENT AGREEMENT  
FOR THE INSTALLATION OF TRANSMISSION LINE**

This Assignment by Grantee of Right of Way Easement Agreement for the Installation of Transmission Line (the "Assignment") is made effective upon approval of this Assignment by Pinal County, a body politic and corporate and a political subdivision of the State of Arizona ("Effective Date"), between SunZia Transmission, LLC, a Delaware limited liability company ("Assignor"), 3610 North 44th Street, Suite 250, Phoenix, AZ 85018, and to El Rio Sol Transmission, LLC, a Delaware limited liability company ("Assignee"), whose address is 3610 North 44th Street, Suite 250, Phoenix, AZ 85018. Assignor and Assignee may be referred to herein as a "Party" or collectively as the "Parties".

1. Assignment of Rights. In consideration of the mutual covenants set forth herein and other good and valuable consideration, the sufficiency of which the Parties acknowledge, Assignor hereby TRANSFERS and ASSIGNS to Assignee all of Assignor's rights, interest, liabilities, obligations, and duties (the "Assigned Rights") arising under or contained in that one certain Right of Way Easement Agreement for the Installation of Transmission Line, dated effective April 6, 2022, and recorded on April 6, 2022, as Fee Number: 2022-041274, in the Official Records of Pinal County Recorder (as amended, amended or restated, or modified, the "Easement Agreement"), executed by and between Pinal County, a body politic and corporate and a political subdivision of the State of Arizona ("Owner"), and Assignor, as Grantee, affecting certain real estate of Owner located in Pinal County, Arizona, as more particularly described in such Easement Agreement.

2. Acceptance of Assignment. As part of the consideration for this Assignment, Assignee hereby accepts this Assignment, expressly agrees to assume and perform all the duties to be performed by Assignor under the Easement Agreement to the same extent as if Assignee had originally been named as the Grantee in the Easement Agreement, and expressly agrees to indemnify, save and hold Assignor harmless from and against any and all liability, claims or causes of action arising out of or relating to the performance or nonperformance of the duties assumed herein or contained in the Easement Agreement. No indemnity of any kind runs from Assignor to Assignee in connection with this Agreement, the Assigned Rights, or the Easement Agreement.

[Signature Page to Follow]

