

**AGREEMENT BETWEEN
THE TOWN OF ORO VALLEY
AND
TUCSON ELECTRIC POWER COMPANY**

Oracle Road and Tangerine Road Undergrounding Projects

This Agreement is made and entered into this ____ day of _____, by and between The Town of Oro Valley, (hereinafter “ORO VALLEY”), a political subdivision of the State of Arizona, and Tucson Electric Power Company (“TEP”), an Arizona public service corporation.

RECITALS

WHEREAS:

- A. The Arizona Department of Transportation (ADOT) intends to construct roadway improvements along Oracle Road/State Route 77 (SR77) from Tangerine to the Pinal County Line as described in its Stage III, 60% plans dated February 2012, hereinafter referred to as the “ADOT Project” (Project C on Exhibit A).
- B. TEP owns and maintains overhead and underground facilities within the ADOT Project limits along SR77.
- C. TEP owns and maintains overhead and underground facilities within the ADOT Right-of-Way along Tangerine Road. TEP, in the public interest to improve reliability, intends to construct additional electrical improvements along SR77 and along Tangerine Road as described in TEP Engineering Final Planning Memo 09-20 dated March 31, 2011, with revisions dated August 12, 2012, hereinafter referred to as the “TEP Rancho Vistoso Project” (Projects A&B on Exhibit A).
- D. ORO VALLEY, in its interest, is requesting the underground relocation and installation of all 13.8kV distribution facilities within the Oro Valley Town limits portion of the ADOT Project and the TEP Rancho Vistoso Project (the “Undergrounding”).

NOW THEREFORE, based on the foregoing recitals, and for and in consideration of the mutual covenants, stipulations and conditions hereinafter contained, ORO VALLEY and TEP agree as follows:

- 1.
 - a. TEP and its subcontractors, shall furnish civil design and install the pads and bases for transformers and associated equipment, conduit, risers, pull boxes, and perform other civil system work related to structures and substructures, including but not limited to breaking of pavement, trenching, bedding, shading, backfilling and concreting, according to the applicable Town of Oro Valley’s and/or ADOT’s and TEP’s construction specifications.
 - b. ORO VALLEY shall provide TEP with appropriate and necessary easement rights along the limits of the Undergrounding.

- c. TEP shall provide and install all new underground cable and associated aboveground appurtenances, including all associated labor and materials, to complete the new underground systems.
 - d. ORO VALLEY will pay TEP for the underground differential cost of the TEP Rancho Vistoso Project, an amount currently estimated at \$1,350,000, plus one-half of the underground differential cost of the Oro Valley portion of the ADOT Project, an amount currently estimated at \$750,000. The sum of these two estimates, \$2,100,000, represents ORO VALLEY's "Estimated Total Cost Share." ORO VALLEY's "Final Total Cost Share" will reflect the differential costs actually incurred by TEP to complete underground construction of both projects and may vary from the estimated amount.
 - e. ORO VALLEY will pay one-half of its Estimated Total Cost Share, or \$1,050,000, upon execution of this agreement and prior to commencement of design and construction. ORO VALLEY will pay the remaining balance of the Final Total Cost Share upon completion of construction.
2. Indemnification. TEP shall indemnify, defend and hold harmless ORO VALLEY, its agents and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of this Agreement, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of TEP, its Contractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not is caused in part by a party indemnified hereunder.

ORO VALLEY shall indemnify, defend and hold harmless TEP, its agents and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of this Agreement, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of ORO VALLEY, its Agents, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not is caused in part by a party indemnified hereunder.

3. Termination. ORO VALLEY reserves the right to terminate this agreement for cause or no cause at any time, with 30 days written notice to TEP. Upon termination TEP shall submit documentation of all work completed up to that time, and ORO VALLEY shall reimburse TEP for those costs actually incurred and reimbursable to TEP under the terms of this agreement, including but not limited to any delay claims incurred as a result of the termination of this agreement.

4. Paragraph Headings. Paragraph headings are for convenience only and are not intended to affect the meaning of any provision of this agreement.
5. Entire Agreement. This instrument contains the entire agreement between the parties, and shall not be amended, altered or changed except by written agreement signed by the parties.
6. Notices. Any notice, request, demand, consent, approval or other communication required or permitted under this agreement or law shall be given, in writing as follows:

Tucson Electric Power Company
Attention: Legal Department
88 East Broadway Boulevard
P.O. Box 711
Tucson, Arizona 85702

Town of Oro Valley
Attention: Town Manager
11000 North La Canada Drive
Oro Valley, Arizona 85737

All notices shall be hand delivered, mailed with postage prepaid, Return Receipt Requested or sent by established overnight delivery service (e.g. Federal Express, UPS, DHL). Either party may change the location for receipt of notices by written notice to the other party. The sender of any notice bears and accepts the risk of non-delivery by the means chosen.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of the day and year first above written.

Tucson Electric Power Company

By: _____

Title: _____

Town of Oro Valley

By: _____

Title: _____