



BOARD OF SUPERVISORS AGENDA ITEM REPORT **CONTRACTS / AWARDS / GRANTS**

Requested Board Meeting Date: September 1 2015

or Procurement Director Award ☐

Contractor/Vendor Name (DBA): Tucson Electric Power Company, an Arizona Corporation ("TEP"). [Supervisor District No. 4]

Project Title/Description:

Agreement to Grant Access Easement to TEP and Access Use and Maintenance Agreement (the "Agreement").

Purpose:

The easternmost portion of County-owned Empirita Ranch, near the Cochise County line, is served by a dirt access road (the "Access Road"). County and TEP both utilize the Access Road to access the State Land Right of Way leading to their respective communication sites on Haystack Mountain, also situated on State Land ("Haystack"). TEP has historically utilized the Access Road to travel to Haystack, prior to County's ownership of Empirita Ranch. TEP would like to formalize its access over the Access Road by obtaining an Access Easement from County. County is agreeable to granting TEP an Access Easement on the condition that TEP share all future expenses related to the maintenance, improvement and repair of the Access Road. TEP is amenable to sharing those expenses equally with County. The Agreement sets out the specific mechanics by which that expense-sharing arrangement will be implemented between the Parties.

Procurement Method:

County seeks permission to execute both the Agreement with TEP and the form of Access Easement in favor of TEP.

Program Goals/Predicted Outcomes:

Cooperation with an existing and historical user of the Access road by granting an Access Easement to TEP and by having TEP, concomitantly, share future expenses of maintenance, repair and improvement of the Access Road with County.

Public Benefit:

County's future expenses related to the maintenance, improvement and repair of the Access Road will be reduced as a result of TEP's sharing those expenses.

Metrics Available to Measure Performance:

TEP will share the expense of maintenance of the subject road with County as long as the Agreement and Easement are in place.

Retroactive:

No.

COB: 8-19-15
BOS: 9-1-15

10pgs(11)

Procure Dept 08/19/15 PM04:35

Original Information

Document Type: CTN Department Code: PW Contract Number (i.e., 15-123): 16*0032
Effective Date: 9/01/2015 Termination Date: 8/31/2040 Prior Contract Number (Synergen/CMS): _____
☐ Expense Amount: \$ _____ ☐ Revenue Amount: \$ _____
Funding Source(s): Not Applicable

Cost to Pima County General Fund: Not Applicable

Contract is fully or partially funded with Federal Funds? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards
Were insurance or indemnity clauses modified? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards
Vendor is using a Social Security Number? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____
Amendment No.: _____ AMS Version No.: _____
Effective Date: _____ New Termination Date: _____
☐ Expense ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ _____
Funding Source(s): _____

Cost to Pima County General Fund: _____

Contact: Michael D. Stofko

Department: Public Works/Real Property Services Telephone: 724-6379

Department Director Signature/Date: [Signature] 8-14-15

Deputy County Administrator Signature/Date: [Signature] 8/19/15

County Administrator Signature/Date: _____
(Required for Board Agenda/Addendum Items)

WHEREAS, County owns that certain real property identified as APN 306-18-008D, -008F, -029B, -033A and -033B, lying within sections 24, 25 and 36, Township 17 South, Range 18 East, G.&S.R.M., Pima County, Arizona, through which an existing access road runs (the "County Access"); and,

WHEREAS, TEP and County desire to utilize and maintain the State Access and County Access for the purpose of accessing their respective communications facilities on the Haystack Site.

NOW, THEREFORE, in consideration of the premises and covenants stated herein, TEP and County agree as follows:

1. USE OF COUNTY ACCESS. TEP may use the County Access for access to and from the State Access to the Haystack Site until TEP notifies County in writing of its intention to terminate its permissive use under this Agreement. In such event, TEP will record a formal termination of Access Easement with the Office of the Pima County Recorder. County makes no warranty or representation as to the suitability of the County Access for travel for any particular type of vehicle or under any weather conditions.
2. GRANT OF ACCESS EASEMENT TO TEP. In order to formalize legal access to TEP over the County Access, County will execute and record an Access Easement in favor of TEP, in substantially the form attached hereto as Exhibit "A".
3. CONTRIBUTION FOR MAINTENANCE AND REPAIR. In consideration for the Grant of Access Easement as set forth in Section 2 above, TEP agrees to share equally with County all expenses incurred for maintenance, improvement to or repair of the County Access during the term of this Agreement. The need for maintenance, improvement to or repair of the County Access will be determined solely by County in its reasonable discretion, provided that TEP may provide suggestions to County for maintenance, improvements or repair at any time. County shall provide thirty (30) days prior notice to TEP before commencement of any maintenance, improvement or repair, except that County may perform or cause to be performed any emergency repairs to the County Access without any prior notice to TEP. County will contract for all work upon the County Access performed by outside contractors, and County will bill for work done by County staff on a time and materials basis. County will pay the cost of any such work and bill TEP for its share of expenses on the County Access, with an itemized detail of all such expenses, and TEP will remit payment for one-half the total cost within sixty (60) days of receipt, unless TEP submits a written statement of dispute to County within said time period, in the event that TEP believes its one-half share was calculated incorrectly.
4. USE BY THIRD PARTIES. County, at its sole discretion and liability, may permit use of the County Access by persons not party to this Agreement; provided, however, such use must

not unreasonably interfere with the rights granted herein to TEP. TEP and County will share equally in any savings in maintenance, improvement or repair costs resulting from payments made by third parties who are permitted to use the County Access. Any billings from County to TEP pursuant to Section 3 hereof, will reflect such third-party payments.

5. TERM AND TERMINATION. This Agreement will continue in full force and effect until the termination of the TEP/ASLD Right of Way or TEP no longer requires access to the Haystack Site. TEP will notify County of the ASLD Right of Way termination within ninety (90) days of said termination.
6. INDEMNIFICATION. TEP and County will indemnify, hold harmless and defend the other Party, and their respective officers, directors, employees and agents from any and all demands, actions, judgments, liabilities and costs resulting from claims of any third parties for property damage or personal injury (including death) resulting from that Party's negligent, willful or intentional acts or omissions in their respective uses of the State Access or County Access or exercise of any rights granted herein.
7. NOTICE. Any notice required or permitted pursuant to this Agreement will be made in writing and transmitted by certified mail to the Parties' addresses as follows, or by other means as mutually agreed to by the Parties:

If to TEP: Manager
 Land Resources
 Tucson Electric Power Company
 P.O. Box 711, HQE613
 Tucson, AZ 85702-0711

If to County: Director
 Pima County Office of Strategic Planning
 130 W. Congress Street, 10th Floor
 Tucson, AZ 85701-1317

With a copy to: Manager
 Pima County Real Property Services
 201 N. Stone Avenue, 6th Floor
 Tucson, AZ 85701-1215

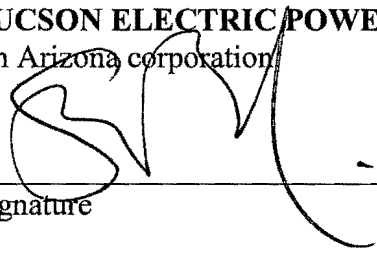
Any Party may from time to time by written notice to the other, change its address for future notices hereunder.

8. ASSIGNMENT. TEP will not assign this Agreement, or any rights granted herein, without first receiving the written consent of County, except where all or substantially all of TEP's assets are acquired by another certificated utility. Any attempted assignment by TEP which does not comply with this Section is void.
9. CHOICE OF LAWS. This Agreement is subject to and will be interpreted under the laws of the State of Arizona. Any court action brought pursuant to this Agreement must be filed and maintained in a court in Pima County, Arizona.
10. COMPLETE AGREEMENT AND AMENDMENT. This Agreement expresses the complete understanding of the Parties with regard to the subject matter of this Agreement and all representations, understandings and negotiations are merged herein. This Agreement may not be amended except in writing signed by authorized representatives of both Parties.
11. CANCELLATION FOR CONFLICT OF INTEREST. This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. section 38-511, the pertinent provisions of which are incorporated herein by this reference.

TUCSON ELECTRIC POWER COMPANY,
An Arizona corporation

Signature

Date


Shannon Breslin

Printed Name

Manager, Land Resources
Title

PIMA COUNTY,
A Political Subdivision of the State of Arizona

Chair, Pima County Board of Supervisors

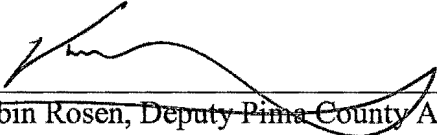
Date

ATTEST:

Robin Brigode, Clerk of the Board

Date

APPROVED AS TO FORM:




Tobin Rosen, Deputy Pima County Attorney

8/10/15

Date

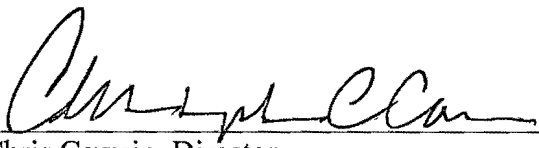
APPROVED AS TO CONTENT:



Neil J. Konigsberg, Manager
Pima County Real Property Services

8-10-2015

Date



Chris Cawein, Director
Natural Resources, Parks and Recreation Department

8/12/15

Date

Exhibit "A"

ACCESS EASEMENT

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, PIMA COUNTY, a political subdivision of the State of Arizona ("Grantor"), does hereby grant to TUCSON ELECTRIC POWER COMPANY, an Arizona corporation ("Grantee"), its successors and assigns, a right of way fifty (50) feet in width on which to maintain and use an existing roadway over and across the following described land in Pima County:

Township 17 South, Range 18 East, Sections 24, 25 and 36, Gila and Salt River Base & Meridian

Depiction maps of the easement granted herein are attached hereto as Exhibits "A", "B" and "C".

The Grantee shall have the right under this easement over the above-described property to maintain the existing roadway and to enter upon said above-described property for the purpose of maintaining said roadway. All grants, covenants and provisions as set forth herein shall be binding on and inure to the benefit of the heirs, successors and assigns of the parties hereto.

Approved and accepted this _____ day of _____, 2015.

Chair, Pima County Board of
Supervisors

ATTEST:

APPROVED AS TO FORM:

Clerk of the Board

Tobin Rosen, Esq.
Deputy County Attorney

EXEMPTION: ARS 11-1134 (A)(3)			Board of Supervisors Approval:
Agent: MS	File #: 11,112-008	Project or W/A #: 1100026031	P <input type="checkbox"/> De <input type="checkbox"/> Do <input type="checkbox"/> E <input checked="" type="checkbox"/>

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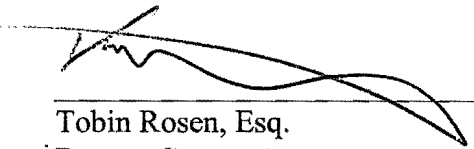
Approved and accepted this _____ day of _____, 2015.

Chair, Pima County Board of
Supervisors

ATTEST:

APPROVED AS TO FORM:

Clerk of the Board



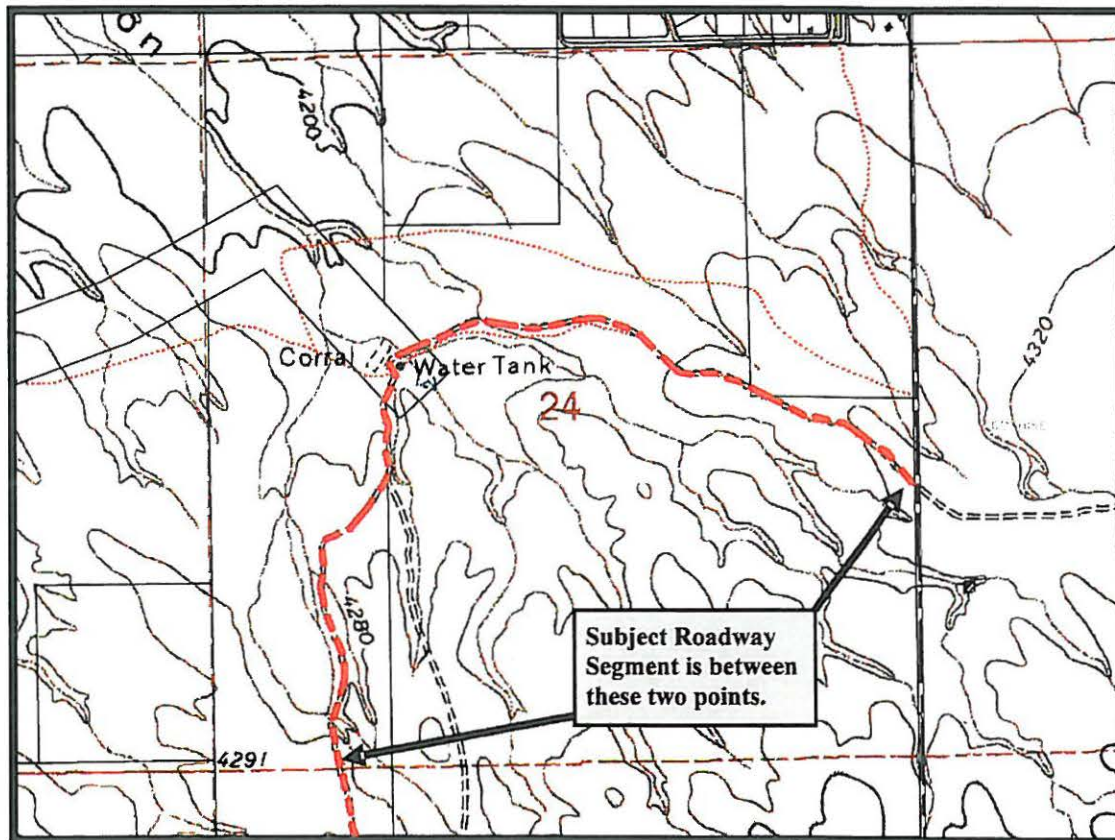
Tobin Rosen, Esq.
Deputy County Attorney

EXEMPTION: ARS 11-1134 (A)(3)			Board of Supervisors Approval:
Agent: MS	File #: 11,112-008	Project or W/A #: 1100026031	P <input type="checkbox"/> De <input type="checkbox"/> Do <input type="checkbox"/> E <input checked="" type="checkbox"/>

EXHIBIT "A"

SECTION 24
TOWNSHIP 17 SOUTH
RANGE 18 EAST

Depiction of 50 foot roadway across Section 24.



**Pima County Public Works Administration
Real Property Services**

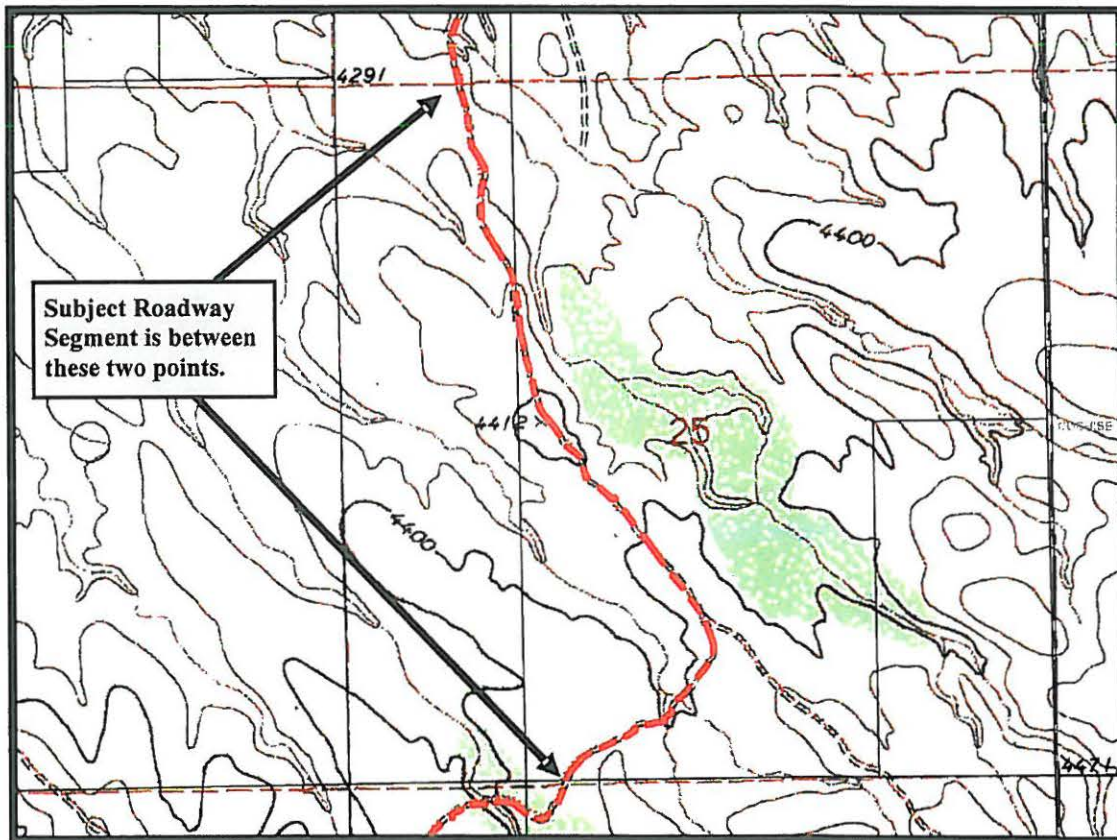
DRAWING NOT TO SCALE

DATE: August 11, 2011

EXHIBIT "B"

SECTION 25
TOWNSHIP 17 SOUTH
RANGE 18 EAST

Depiction of 50 foot roadway across Section 25.



**Pima County Public Works Administration
Real Property Services**

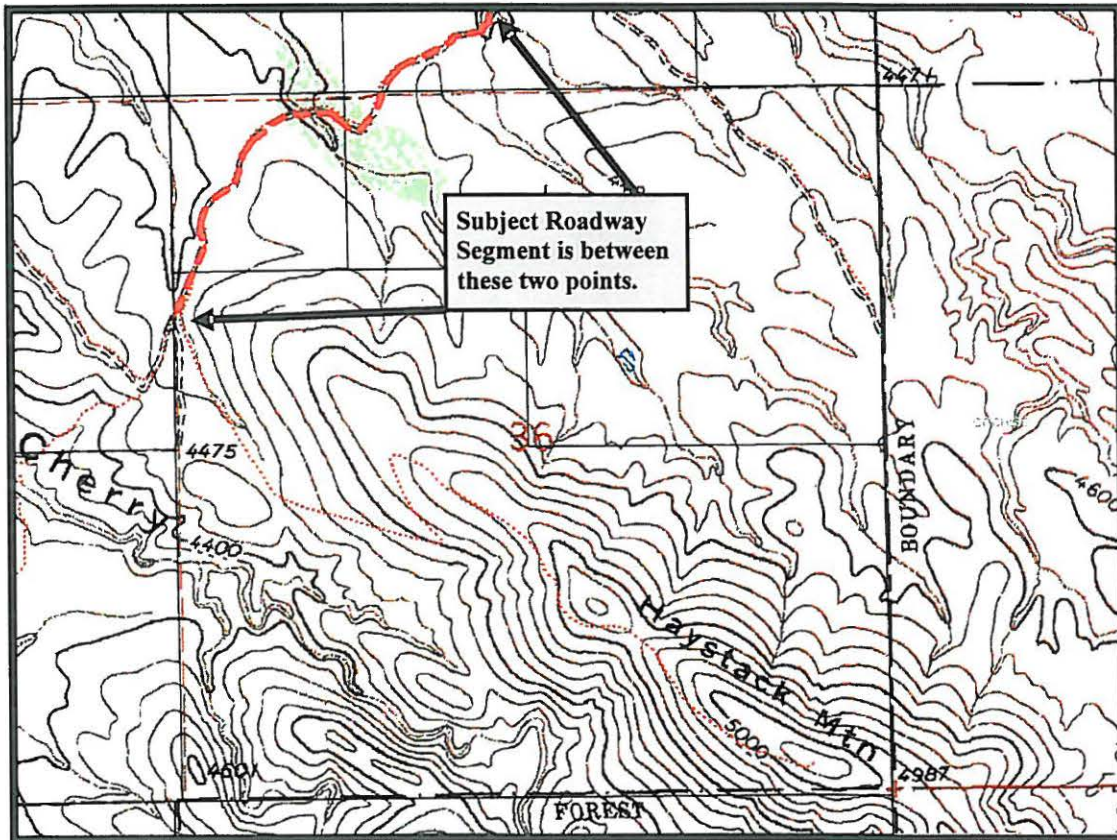
DRAWING NOT TO SCALE

DATE: August 11, 2011

EXHIBIT "C"

SECTION 36
TOWNSHIP 17 SOUTH
RANGE 18 EAST

Depiction of 50 foot roadway across the NW4 of Section 36.



**Pima County Public Works Administration
Real Property Services**

DRAWING NOT TO SCALE

DATE: August 11, 2011