

VISTOSO COMMUNITY
FIRST AMENDMENT TO RESTATED DECLARATION OF COVENANTS,
CONDITION, RESTRICTIONS AND EASMENTS FOR RANCHO VISTOSO

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FIRST AMENDMENT TO RESTATED DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR RANCHO VISTOSO,
PIMA COUNTY, ARI ZONA

RECITALS

A. Declarant made that certain Restated Declaration of Covenants, Conditions, Restrictions and Easements for Rancho Vistoso, Pima County, Arizona, dated April 10, 1987, and recorded in Docket No. 8021, Pages 925-1024 in the Office of the County Recorder for Pima County, Arizona (the "Declaration"). Declarant encumbered that certain property more fully described in said Declaration and commonly known as Rancho Vistoso in the town of Oro Valley, Pima County, Arizona (the "property") with Covenants, Conditions, Restrictions and Easements which are more fully set out in said Declaration.

B. Article V, Paragraph 5.4.20 of the Declaration provides as follows:

Utility Lines and Connections. All utility wires, lines, pipes, conduits, facilities, connections and installations (including, without limitation, electrical, telephone, cable television, water, gas and sanitary sewer) shall be installed and maintained underground or concealed under, or on structures approved in writing in advance by the Architectural and Landscaping Review Committee. Utility meter or apparatus shall be located on any pole or attached to the outside of any building wall which is exposed to view from any street. All transformers shall be placed on or below the surface of the Lot or Parcel. Temporary above-ground power or telephone structures and water lines incident to construction activities shall be permitted but only with the prior written approval of the Architectural and Landscaping Review Committee;

C. Prior to the making of the Declaration, by virtue of that certain Board of Supervisors of Pima County Resolution and Order No. 1984-89 providing for the abandonment of Moore Road Extension No. 257 under Proceeding No. 2526, dated April 3, 1984, and recorded at Docket No. 7268, Page 1190 in the Office of the County Recorder for Pima County, Arizona, Trico Electric Cooperative, Inc. ("Trico") together with other Public Utility and Service providers, was granted the reservation of a 30 foot easement over and upon the north 30 feet of section 36, Township 11 South, Range 13 East, and Sections 31 and 32, Township 11 South, Range 14 East.

D. Prior to the making of the Declaration, it was the intent of Declarant and Trico to agree to the relocation of the above described 30 foot easement, upon which Trico has located Power poles and electric lines transmitting 14,000 volts of electricity. The Declaration erroneously omitted provision for this anticipated relocation of utility easement.

E. Upon recordation of that certain subdivision plat known as Rancho Vistoso Neighborhood 7, Unit I, Lots 1 through 317, Common Area A & B, being a subdivision of a portion of sections 25 and 36, Township 11 South, Range 13 East, as more fully shown by plat of record in Book 41 of Maps, Page 100 in the Office of the County Recorder for Pima County, Arizona, a portion of the Trico 30 foot easement encroached upon residential lots in Unit I, Neighborhood 7.

F. Declarant and Trico have agreed to abandon the existing 30 foot utility easement as it encroaches upon residential lots in Unit I, Neighborhood 7, and have further agreed to relocate the 30 foot utility easement outside the perimeters of those lots, so as to protect the value, desirability and attractiveness of the residential lots in Unit I, Neighborhood 7.

G. Declarant intends to grant a 60 foot utility easement to Arizona Electric Power Cooperative, Inc., an Arizona corporation ("AEPSCO") , for the purpose of locating power poles not to exceed 80 feet in height and electric lines transmitting a maximum of 115,000 volts of electricity from AEPSCO's substation, east of Unit I, Neighborhood 7, thence in a general westerly and northwesterly direction outside the perimeters of Unit I, Neighborhood 7, so as to protect the value, desirability and attractiveness of the residential lots in Unit I, Neighborhood 7.

H. Declarant now desires to amend the Declaration to provide for the relocation of Trico's easement, the granting of an easement to AEPCO, and any other future relocation of existing utility easements, which relocation is designed to protect the value, desirability and attractiveness of Rancho Vistoso.

AMENDMENT

NOW, THEREFORE, in consideration of the premises, hereby amends the Declaration as follows:

1. The following is hereby inserted after subparagraph 5.4.20:

Notwithstanding the above, the following permitted uses shall be installed and maintained above ground:

(a) The relocation of Trico Electric Cooperative, Inc.'s ("Trico") 30 foot utility easement upon and across that property more fully described in Exhibit A which is attached hereto and by this reference made a part hereof. The Trico electric lines shall be installed upon the power poles belonging to Arizona Electric Cooperative, Inc. and shall not transmit voltage in excess of 30,000 volts of electricity.

(b) The location of Arizona Electric Power Cooperative, Inc.'s. 60 foot utility easement upon and across that property more fully described in Exhibit A, for the purpose of constructing, operating and maintaining electric lines transmitting 115,000 volts of electricity or less, suspended upon steel and/or wood poles that are a maximum of 80 feet in vertical height, and all necessary and proper guys, anchors, crossarms, braces and other fixtures for use in connection therewith.

(c) Any future relocation of existing utility easements, which relocation is designed to protect the value, desirability and attractiveness of Rancho Vistoso.

2. Ratification of Declaration. Except as expressly amended hereby, the Declaration shall remain in full force and effect and, except as modified hereby, is herewith ratified and confirmed in all respects.

IN WITNESS WHEREOF, then undersigned Declarant First Amendment To Restated Declaration ions, Restrictions and Easements For Rancho Arizona as of the day and year first above written.