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1 William G. Beyer, Esq.
2 5632 West Alameda Road
3 Glendale, Arizona 85310
4 623/434-5627
5 Arizona Bar #004171

6 **BEFORE THE ARIZONA CORPORATION COMMISSION**

7 WILLIAM A. MUNDELL
8 CHAIRMAN
9 JIM IRVIN
10 COMMISSIONER
11 MARK SPITZER
12 COMMISSIONER

13 IN THE MATTER OF THE JOINT)
14 APPLICATION OF SUN CITY WATER)
15 COMPANY AND SUN CITY WEST)
16 UTILITIES COMPANY FOR)
17 APPROVAL OF CENTRAL ARIZONA)
18 PROJECT WATER UTILIZATION)
19 PLAN AND FOR AN ACCOUNTING)
20 ORDER AUTHORIZING A)
21 GROUNDWATER SAVINGS FEE AND)
22 RECOVER OF DEFERRED CENTRAL)
23 ARIZONA PROJECT EXPENSES.)

DOCKET NO. W-01656A-98-0577
SW-02334A-98-0577

CLOSING BRIEF

NOTICE OF FILING

24 The CAP Task Force hereby provides Notice of Filing of its Closing Brief as
25 required by the Hearing Officer's Procedural Order in the above-captioned case.

26 **Respectfully submitted** this 11th day of February, 2002.

27 **WILLIAM G. BEYER**

William G. Beyer, Esq.

Arizona Corporation Commission

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1 **AN ORIGINAL AND TEN COPIES**
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9 **COPIES** of the foregoing mailed
10 this 11th day of February, 2002,
11 to the following:

12 Christopher Kempley, Chief Counsel
13 Janet Wagner, Staff Counsel
14 Legal Division
15 Arizona Corporation Commission
16 1200 W. Washington
17 Phoenix, Arizona 85007

18 Dwight Nodes, Administrative Law Judge
19 Arizona Corporation Commission
20 1200 W. Washington
21 Phoenix, Arizona 85007

22 Ernest Johnson, Director
23 Utilities Division
24 Arizona Corporation Commission
25 1200 W. Washington
26 Phoenix, Arizona 85007

27 Jane Rodda, Administrative Law Judge
Hearing Division
Arizona Corporation Commission
400 West Congress
Tucson, Arizona 85701-1347

Michael M. Grant, Esq.
Todd C. Wiley, Esq.
Gallagher & Kennedy, P.A.
2575 East Camelback Road
Phoenix, Arizona 85016-9225
Attorneys for Citizens Communications Company

Scott S. Wakefield
Residential Utility Consumer Office
2828 N. Central Ave., Suite 1200
Phoenix, Arizona 85004

1 Walter W. Meek, President
2 Arizona Utility Investors Association
3 2100 North Central, Suite 210
4 Phoenix, Arizona 85004

5 William P. Sullivan
6 Paul R. Michaud
7 MARTINEZ & CURTIS
8 2712 North 7th Street
9 Phoenix, Arizona 85006-1090
10 Attorneys for Sun City Taxpayers Association

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By: *Tamela R. Malott*

1 **Joint Facility with the Agua Fria Division**

2 SCTA, through the testimony of Mr. Husted [See: Exhibit SCATA-1], took the
3 position that the Sun City Water Company and the Sun City West Utilities Company
4 (herein referred to collectively as "Citizens") had not adequately explored the potential
5 for combining the GSP with Citizens' future plans to bring CAP water into the area
6 served by its Agua Fria division.

7 To the contrary, the Task Force believes that the Preliminary Engineering
8 Report ("PER") [See: Exhibit A-1] was more than specific in discussing this issue.
9 Pages D-3 thru D-5 of the PER are quite specific in this regard. Please note that
10 references herein to the PER include the Supplemental Engineering Report prepared
11 by Citizens as an addendum to the PER, dated 12-18-00.

12 Further, the testimony of Mr. Jackson as provided by Citizens adequately
13 rebutted the view of Mr. Husted by indicating a serious review effort that had been
14 undertaken by Citizens on this issue. [See: Rebuttal Testimony of Ronald Jackson,
15 Exhibit A-2, page 5 et. al.]

16 The potential use of the Beardsley Canal has been an issue of substantial
17 concern to the Task Force. Not only would the problem of annual dry-up be a
18 potential obstacle to the delivery of water necessary to continue to operate the golf
19 courses [See: testimony of Mr. Jackson on 1-9-02, trans. Pg. 250 and testimony of K.
20 Larson on 1-10-02, trans. Pg. 367], but the canal is a major water wheeling vehicle
21 for a large number of users whose needs are likely to expand and change in the
22 future, particularly as the character of the agricultural lands to the South of the Sun
23 Cities changes to an urban character. The uncertainties surrounding the future
24 character of the operations of the Maricopa Water District ("MWD") and especially the
25 uncertainty surrounding the potential future uses of the canal (and their effect on
26 deliveries to the golf courses) just of themselves provided more than adequate
27 reason for the CAP Task Force (and the Recreation Centers in particular) to be

1 concerned about any plan involving MWD's canal.

2 Most of the alternatives raised by Mr. Husted in arguing for a joint Agua Fria
3 Division project were predicated on the use of the Beardsley canal. So
4 notwithstanding the effectiveness of the other points discussed in Mr. Jackson's
5 detailed and excellent rebuttal to Mr. Husted's testimony [See: Exhibit A-2], the Task
6 Force believes that the one point about the uncertainty of the long-term availability of
7 the Beardsley Canal is enough to establish that the proposals for its use are simply
8 unfeasible. Accordingly, the Task Force believes that the PER and Mr. Jackson's
9 testimony answered the issue of whether adequate consideration had been given to a
10 joint water distribution plan with the Citizen's Agua Fria division.

11 The Task Force also respects the more detailed conclusions as reached by
12 Commission Staff on the issue of a joint facility, and agrees with the summary
13 provided by Mr. Scott in his Responsive Testimony. (See: Exhibit S-1, page 5, L. 19-
14 26]

15 **The Need for all the Major Elements of the GSP as Defined in the PER**

16 In the view of the Task Force, Mr. Husted's testimony, taken as a whole,
17 raised a number of speculative ideas on what might be done as alternatives to the
18 design of the GSP system as described in the PER. However, Mr. Husted assumed
19 the position of raising possible ideas without assuming any responsibility for
20 evaluating their feasibility. His thoughts, for example, on how the Sun City West
21 Recreations Centers could reconfigure its effluent system or somehow configure
22 West-East water flows, to make use of that water on golf courses ignored the costs to
23 the community of any such reconfiguration project. Mr. Husted also failed to
24 consider that the Recreation Centers, with an excellent understanding of the past
25 history of the effluent treatment system and a decent respect for the opinions of its
26 constituency regarding the use of effluent on the golf courses, would reasonably find
27 any such program completely untenable. [See discussion by witness Jackson, trans.

1 pg. 272] By not seriously evaluating the feasibility of the ideas which he raised, Mr.
2 Husted failed in his argument that particular major elements of the GSP were
3 unnecessary.

4 Of particular concern to the Recreation Centers of Sun City West was
5 Husted's proposal to delete a SCADA from the project. As testified to by Mr.
6 Jackson, trying to implement the GSP project without a SCADA would have been
7 technically impossible. [See: testimony of witness Jackson, trans. pg. 275] In the
8 Task Force's view, no competent system designer of a project of the scope and
9 complexity of the GSP would seriously consider not using a SCADA system as an
10 essential part of the design of the system. The Recreation Centers, with their own
11 detailed understanding of the operation of a major golf course water distribution
12 system, would not have accepted a project which did not include a SCADA. That's
13 just not how modern distribution systems are designed. Here again, Mr. Husted
14 speculatively proposed an idea, but failed to evaluate the effect of his idea on, for
15 example, the costs of manual operation, a lack of operational flexibility and system
16 safety. As a result, we were not presented in the testimony of Mr. Husted or anyone
17 else, with a reasonable engineering or operations basis for that would be persuasive
18 in establishing that deleting a SCADA was a better idea than having one.

19 The Recreation Centers of both Sun City and Sun City West have a corporate
20 responsibility to the Sun City communities to maintain the viability of the golf courses.
21 The golf courses are essential to the lifestyle of those communities, and the value of
22 all the homes in those communities is closely tied to the golfing experience. Further,
23 the Recreation Centers have a corporate obligation to all the residents of the Sun
24 Cities to operate the golf courses in as efficient and cost-effective manner. The
25 Recreation Centers take those responsibilities very seriously, as attested to by forty
26 years of outstanding service to the communities. And because of the seriousness
27 which they attach to their community-service role in managing and operating the golf

1 courses, the Recreation Centers have viewed ideas and comments from Mr. Husted
2 and others with interest and concern. It should be obvious that given all they have at
3 stake, the Recreation Centers would not have gone forward with this GSP without
4 having satisfied itself that the PER reflected an appropriate engineering design which
5 accommodates all the complexities of running a system such as theirs.

6 Upon reviewing Mr. Husted's thoughts, it is still the Task Force's belief, as
7 reinforced by the experience of its member Recreation Centers, that the current GSP
8 reflects an appropriate and effective design, and the PER only includes those design
9 elements which are essential to the long-term mission of the Recreation Centers.
10 Further, the Task Force is convinced that the totality of the rebuttal testimony of Mr.
11 Jackson [See: Exhibit A-2], when compared to the unsupported ideas of Mr. Husted,
12 supports the conclusions reached by the Recreation Centers' own engineers in
13 making their own evaluation of the PER.

14 **Binding Agreements With Golf Courses**

15 Initially, SCTA claimed that agreements which would effectuate the GSP were
16 not in existence. A subsequent exchange of documents has shown that all the
17 necessary agreements are indeed in place. [See: Exhibits 6,7, 8 & 9,10,11, those
18 documents being referred to herein as the "Agreements"] SCTA then claimed that
19 the documents which make up the Agreements were somehow flawed, and the Task
20 Force has considered those claims with great seriousness, especially since two of its
21 members are signatory to those Agreements.

22 Upon review, however, it is the view of the Task Force, and the two Recreation
23 Centers in particular, that the Agreements which are in place are satisfactory for their
24 intended purpose and are enforceable by their terms by both parties. There has
25 been no specific showing to the contrary by SCTA.

26 Mr. Sullivan, attorney for the Taxpayers, at the hearing on January 10, 2002,
27 raised a question about ownership rights to the water obtained from the Sunland

1 Memorial well, and he has subsequently been given documents which establish the
2 rights to that water by the Recreation Centers of Sun City. Copies of those
3 documents are attached to this brief as a reference and identified as Exhibit A,
4 attached hereto.

5 The only other substantive issue regarding the Agreements which was raised
6 by SCTA was the possibility that under one specific condition, Citizens would have
7 the right to terminate the agreements. We will discuss that issue in another context
8 under the heading "Ancillary Issues" below.

9 SCTA's counsel, through various questions directed to the Citizens' witnesses,
10 seemed to have a problem with the fact that representatives from the Recreation
11 Centers of Sun City preferred to exclude the private, for-profit golf courses in Sun
12 City from the GSP. The Task Force, recognizing that all the Recreation Center golf
13 courses are open to all the residents of Sun City, respects the decision by a non-
14 profit entity serving the entire community of Sun City to want to insist that the benefits
15 of a program being paid for by all its members (which are all the residents of Sun
16 City) be made available to everyone in Sun City and not benefit a for-profit
17 corporation which serves a limited group of members, including persons not living in
18 the community. And the Task Force endorses the opinion expressed by Mr. Larson
19 given at the hearing identified that there were prudent business reasons for the
20 preference expressed by both HOA and the Recreation Centers of Sun City. [See:
21 cross-exam. of Larson on 1-10-02, trans. pg.370-371]

22 However, we also believe that the "exclusivity" position taken by the
23 Recreation Centers of Sun City is immaterial since SCTA never established any
24 reason as to why inviting the private, for-profit golf courses to participate would have
25 had any impact on the costs or viability of the GSP.

26 Based on all the above, the Task Force believes that the requirement of the
27 Commission that appropriate commitments, in the form of the Agreements between

1 the relevant parties, be in place to implement the GSP has been satisfied.

2 **ANCILLARY ISSUES**

3 In addition to the above-noted comments on the three basic issues posed by
4 the Corporation Commission, the opposing parties have raised a number of ancillary
5 issues to which the Task Force would like respond, as follows:

6 **1. Rate Shock**

7 RUCO in particular, through the testimony of Marylee Diaz Cortez, raised a
8 concern that adoption of the GSP as a general plan, and acceptance of the PER as
9 an engineering design, would result in "rate shock", a term which was undefined in
10 these proceedings.

11 The Task Force believes that Rate Shock is a non-issue. This same issue
12 was raised by RUCO in the prior hearing in this same case before Administrative Law
13 Judge Jerry Rudibaugh, and RUCO presented essentially the same arguments then
14 as it did in the Hearing on January 9, 2002 and in the prepared testimony of Ms.
15 Cortez. [See: Exhibit RUCO-1, pg. 3, L. 10-14] The Commission had an opportunity
16 to review the "Rate Shock" arguments and subsequently nowhere mentioned any
17 concern about Rate Shock in its Decision #62293. We believe, therefore, that the
18 Commission has already decided against this issue, at least as regards the
19 sufficiency of the PER. In addition, in its Decision the Commission acknowledged
20 that any final decision regarding rates for recovery of the costs of the "Long Term"
21 solution would be held for a further proceeding. [see. Decision, page 15, L. 20-21]
22 Clearly, at such future time the Commission could, should it wish, take whatever
23 steps it felt necessary to deal with any concern about rate shock.

24 We also note that Ms. Cortez, in her testimony under cross-examination on
25 January 9, 2002, acknowledged that she had formed her opinion regarding rate shock
26 without any study or analysis of the demographics of the Sun Cities, or any input or
27 research regarding the economic status of the population of the Sun Cities. [See:

1 trans. pgs. 158-162] By comparison, the testimony of Staff's Clausio Fernandez, as
2 adopted by Mr. Thornton, analyzed the nature of the rate increase and its probable
3 effect in real dollars on the residents of the Sun Cities and concluded that there
4 would be no rate shock. [See: Exhibit S-2, pg. 2-3, l. 20-25, 1-11]

5 The experience of the Task Force organizations and their long and close
6 relationships with all the residents of the Sun Cities leads to the conclusion that Mr.
7 Fernandez' testimony was the more credible and that rate shock will not be a problem
8 when the GSP is implemented.

9 **2. Hydrogeology Studies**

10 Mr. Husted, in his prepared testimony and in the summary of his testimony
11 provided by SCTA, opined that the PER was flawed because it failed to provide any
12 studies of the hydrogeology of the area which will be affected by the GSP. [See:
13 Notice of Filing of Rebuttal Testimony dated 9-6-01, pg. 16-17, L. 17-26, 1-6] Upon
14 cross-examination, Mr. Husted finally remembered that there had been a
15 hydrogeologic study made, but he couldn't remember any details of it.

16 The Task Force believes it important for the Commission to recognize that a
17 thorough and professional hydrogeologic study was done on the underground aquifer
18 by Mr. Herbert Schumann, an independent consultant experienced in hydrogeology.
19 The report was entitled "Utilization of Central Arizona Project Water in Sun City and
20 Sun City West", also referred to herein as the "Schumann Report". [See: Notice of
21 Filing of Rebuttal Testimony dated 9-30-99, testimony of Mr. Chappellear] Mr.
22 Schumann's Report reviewed issues such as subsidence, current overdrafting, the
23 positive effect of the GSP on groundwater table, and the major shortcoming of the
24 recharge option being urged by SCTA. The Schumann Report was entered into the
25 record in the hearing before Judge Rudibaugh, and is a part of the prior record in this
26 case. No opposing party has ever taken issue with the substance or the conclusions
27 of the Schumann report.

1 Therefore, the Task Force asks that the recommendation of Mr. Hustead to the
2 effect that hydrogeologic studies need to be performed [See: id] be rejected since
3 adequate professional study in this area has already been completed and has never
4 been challenged.

5 Further, Mr. Dare, in his testimony at the hearing [See: testimony on 1-9-02,
6 trans. pg. 202] indicated that SCTA has now changed its opinion and favors
7 recharge of the CAP water allotments of the Sun Cities behind the Agua Fria
8 recharge site. Other than reporting on a conversation with unknown persons of
9 unknown expertise, he gave no facts or reasons in support of that opinion. However,
10 the Task Force feels that it is important to note that the issue of recharge as an
11 alternative was explored repeatedly in the original proceedings of the Task Force
12 [See: CAP Task Force Final Report - October 1998, tab L, pgs 4-6, identified as
13 "CAWCD " option], and was not accepted as the preferred alternative. Further, the
14 subsequent work by Mr. Schumann, as summarized on page 6, item 6 in his Report,
15 pointed out the key reason that the CAWCD (or Agua Fria) recharge option is not
16 acceptable. And that reason is that no ratepayer in the Sun Cities would begin to
17 realize any benefits from the recharge option for a period of approximately twenty
18 years after recharge commenced. The Task Force believes that Mr. Schumann's
19 conclusions, especially regarding the long delay and uncertainties in realizing any
20 benefits from such recharge, are still viable, and no evidence has been presented by
21 SCTA or anyone else to the contrary.

22 Finally, the technical uncertainties surrounding the recharge alternative, as
23 testified to by Mr. Larson on 1-10-02 [See: trans. pgs.366-67] underscore the Task
24 Force's belief that the recharge option was appropriately considered and rejected.

25 **3. Arsenic**

26 Although it was never quite clear to us exactly what point counsel for both
27 SCTA and RUCO were trying to make regarding the possible presence of arsenic in

1 the wells of Citizens which serve the Sun Cities with drinking water, it apparently was
2 posited by those parties that if the presence of arsenic and the imposition of future
3 regulation by the Federal government regarding arsenic in drinking water were to
4 prohibit Citizens from using some of its current Sun City wells, then Citizens might
5 seek to terminate the Agreements with the Recreation Centers and thus terminate the
6 operation of the GSP. Presumably, Citizens would then seek to use the CAP water
7 allotment for drinking water, provided they could build a suitable treatment plant.
8 Should that set of speculative future events ever come about, then it was suggested
9 that the residents of the Sun Cities could be stuck with the costs of paying for a
10 pipeline that was no longer needed.

11 The Task Force believes that this string of suppositions ignores the realities of
12 what would occur in such a situation. First, if Citizens should ever choose to utilize
13 the CAP allotments which have been reserved for the Sun Cities for drinking water
14 purposes (as opposed to the GSP), it would first have to build a water treatment plant
15 to convert the CAP water to drinking water. In such case, the most logical course of
16 action for Citizens would be (as Glendale and others have already done) to build
17 such a treatment plant adjacent to the CAP canal and transport the drinking water by
18 pipeline to the communities to be served. In such case, the pipeline being built as
19 part of the GSP would be the logical choice to use for such transport, and it would
20 thus continue to serve the residents and rate payers of the Sun Cities. Second, we
21 have faith that in any future proceeding before the Commission wherein Citizens
22 would seek rate relief for the costs of such a CAP water treatment plant and its
23 associated infrastructure, the issue of whether the GSP pipeline continued to be used
24 and useful (and hence a part of rates being paid by the Sun Cities residents) would
25 receive a thorough and equitable review by the Commission. And we note that
26 section 6.4 (page 6) of the Agreements between Citizens and each of the golf course
27 entities recognizes just such a process should termination of the Agreements ever

1 take place.

2 The Task Force therefore urges that speculative arguments raised by SCTA
3 and RUCO about possible future negative findings of arsenic levels in the
4 underground aquifer, with a consequent possible problem regarding payment for the
5 pipeline portion of the GSP, be rejected.

6 The Task Force also believes that the provisions on termination which appear
7 in the Agreements with the golf course entities [see: section 6.3d, pg.6] provide
8 substantial provisions for community review if the issue of the need to apply CAP
9 water for drinking purposes should such an issue ever arise in the future, and thus
10 counters any arguments which the opposing parties have raised regarding arbitrary
11 termination of the Agreements by Citizens.

12 **4. Non-feasible Alternatives**

13 Both in their prepared testimony and in cross-examination of Citizens'
14 witnesses, counsel for SCTA and RUCO repeatedly raised possible alternatives to the
15 GSP. Their presumed intent was to show that Citizens, in preparing the PER, had
16 not considered all the possible alternatives to the GSP which could be imagined. The
17 Task Force strongly urges that this court reject the various arguments made by the
18 opposing parties that every possible alternative to the GSP was not explored for two
19 key reasons.

20 First, the Commission, in framing its Decision, specifically approved the
21 concept of the GSP. [see. Decision, page 16, lines 20-22] Attempts to frame
22 alternatives to the GSP are not what the Commission asked that this hearing process
23 address, and are not appropriate as challenges to the completeness of the PER. In
24 the view of the Task Force, the testimony of Citizens three witnesses (Jackson, Buras
25 and Larson) adequately addressed, point by point, those issues which Mr. Husted
26 raised about technical alternatives to the design matters reflected in the PER.
27 Independently, Commission Staff, as seen in the testimony of Mr. Scott [See Exhibit

1 S-1, pgs 4-5], reached the same conclusions regarding the sufficiency of the PER.
2 As a result, attempts to raise alternatives beyond that scope should, in our view, be
3 rejected.

4 Second, the Task Force believes that in posing alternatives to the GSP in the
5 guise of an attack upon the completeness of the GSP, the opposing parties had a
6 duty to at least address the feasibility of the ideas they were espousing. Clearly,
7 suggesting alternatives that were completely non-feasible was not doing any favors to
8 the effectiveness of this proceeding and had no bearing on the main issue at hand,
9 which was the completeness of the PER. As examples of non-feasible alternatives
10 which were belabored in the hearing process we point to just two examples.

11 First, consider the demand by counsel for RUCO, Mr. Pozefsky, of Citizens'
12 witness Jackson as to why they had not considered dumping the CAP water in the
13 channel of the Agua Fria river and then pumping it out somewhere further
14 downstream for use in the Sun Cities. [See: trans. pg. 234] Counsel felt no obligation
15 to consider such obvious, common-sense issues such as the impact of the losses
16 which would obviously occur in both the above-ground and the underground flow of
17 the stream bed in the process of such a transfer. In our view, the obvious
18 inefficiencies of such an idea immediately place it beyond the realm of feasibility. Nor
19 did counsel consider the virtually impossible regulatory burden, both state and
20 federal, of permitting both a dumping of water into the Agua Fria and then a pumping
21 of water from that river. We submit that the experience of anyone who has been
22 involved in the management of water resources in this state would have the common-
23 sense to shrink very quickly from the thought of battling the legal obstacles clearly in
24 the path of any such idea.

25 As another example, Mr. Dare, in his 1-9-02 testimony under cross-
26 examination [See: trans. pg.234], agreed that an alternative that should have been
27 considered was to transfer the Sun City CAP allotment to Sun City West and have

1 the entire GSP focus on the Sun City West golf courses. This idea would thus relieve
2 the rate payers of Sun City of any responsibility for the GSP and transfer all that cost
3 burden to the residents of Sun City West. Not only did this proposal ignore the
4 fairness of having one community carry all the cost burden of the GSP, but it ignored
5 the obvious political impossibility of getting Sun City West residents to agree to carry
6 the burden of Sun City residents. More importantly, Mr. Dare also ignored the basic
7 fact that land subsidence caused by overdrafting of the underground aquifer is
8 advancing in the direction of Sun City first. Hence, the basic problem which the GSP
9 is intended to solve would be effectively thwarted if his proposal were to be adopted.
10 Fortunately, Mr. Larson's testimony under cross-examination [See: testimony on 1-10-
11 02, trans. pg.366] explained that basic fact by referring to the map of the area. So
12 upon the simplest of analysis, the idea being proposed by Mr. Dare was clearly
13 unfeasible.

14 Taken as a whole, the Task Force believes that both the rebuttal and direct
15 testimony at the Hearing given by Mr. Jackson indicates that the Citizens preparation
16 and review of the PER was reasonable in focusing on alternatives that were feasible
17 and that they exercised sound engineering judgement in not pursuing alternatives
18 which made no sense. Mr. Jackson's testimony repeatedly uses the words "feasible"
19 and "viable" in discussing the alternatives which were considered. This stands in
20 contrast to the opposing parties, who offered no consideration of the feasibility of their
21 proposals. We applaud Mr. Jackson's recognition that common sense had to be
22 given its due in considering alternatives to be evaluated.

23 In summary, the Task Force believes that the opposing parties, in suggesting
24 alternatives to the general scheme of the GSP as defined in the PER, had a duty to
25 show some minimal support for the feasibility and practicality of their ideas. That was
26 clearly not their position, and they did not attempt to do so. But simply throwing up
27 ideas without any regard for their feasibility and then suggesting that further studies

1 should be made is, in our view, not reasonable. Instead, it leads to a process that is
2 unending, and is certainly not supportive of the guidance which the Commission
3 asked of this hearing process.

4 The Task Force is in agreement with the position of Citizens that it considered
5 all the alternatives that were both practical and feasible, and that the final version of
6 the PER reflects that process of consideration.

7
8 **CONCLUSION**

9 The Task forces believes, based upon the testimony of both Citizens and the
10 Commission Staff, that:

11 (A) Citizens has adequately addressed the feasibility of modifying the
12 general concept of the GSP to make it a joint project with their Agua Fria division,
13 and found that such a course of action would not be feasible.

14 (B) The PER appropriately identifies all those major elements needed to
15 implement the GSP, and no other.

16 (C) Binding commitments exist with the Recreation Centers of both Sun City
17 and Sun City West and the Briarwood Country Club such that the implementation of
18 the GSP is possible.

19 The Task Force asks that the Hearing Officer adopt those three conclusions as
20 his findings.

Exhibit A

WGR:ps 9/19/75

AGREEMENT

THIS AGREEMENT made and entered into this 22nd day of September, 1975, by and between ARIZONA TITLE INSURANCE AND TRUST COMPANY, AS TRUSTEE OF TRUST #6325, hereinafter referred to as "Trustee", and RECREATION CENTERS OF SUN CITY, INC., a non-profit corporation, hereinafter referred to as "Centers".

W I T N E S S E T H:

WHEREAS, Trustee currently has title to certain property, a description of which is attached as Exhibit "A" and made a part hereof by reference thereto, said property consisting of seven golf courses located in Sun City, Maricopa County, Arizona, and a lake known as Viewpoint Lake, also located in Sun City, Maricopa County, Arizona; and

WHEREAS, pursuant to the provisions of Trust #6325, Centers is the primary beneficiary of said trust; and

WHEREAS, pursuant to the terms of Trust #6325, the primary beneficiary may take title to all the property owned by said trust;

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, Trustee agrees to convey to Centers and Centers hereby agrees to accept from Trustee all right, title and incidents of ownership to all property known as the River-View, Willowbrook, Willowcreek, Lakes East, Lakes West, South and North golf courses in Sun City, Arizona, and Viewpoint Lake in Sun City, Arizona, consisting of and including but not limited to the real property described in Exhibit "A" attached hereto and made a part hereof, and all buildings and improvements,

LAW OFFICES OF
G.D. ROSENFELD, DIVELISS & HILGERTSON
2500 VALLEY CENTER
PHOENIX, ARIZONA 85023
1-602-257-7432

including pump stations, located thereon, on the 1st day of June, 1977, subject to the following provisions and conditions:

1. Trustee shall, at Centers' option, provide to the Centers, budgetary and financial advice to assist Centers in the operation of the golf courses and Viewpoint Lake. Centers may, prior to June 1, 1977, form a committee which shall meet with representatives of the Del E. Webb Development Co., who currently manage said courses, to review on a frequent basis, records and reports, including financial records and reports, relating to the operation of the golf courses and Viewpoint Lake so as to enable Centers to become knowledgeable as to the requirements of the operation of the golf courses and Viewpoint Lake. Centers' committee may make recommendations on a quarterly basis as to the operation and maintenance of the golf courses and Viewpoint Lake. Trustee shall make available after May 31, 1977, the services of Mr. Mike Britt, or an alternative acceptable to Centers, to assist in the orderly transition and operation of the golf courses to Centers. Such assistance from Mr. Britt will be at the expense of Trustee. If Centers so desires, Trustee shall furnish to Centers, at Trustee's expense, assistance in the training of personnel to operate the pro shop facilities.

2. All contracts currently in force relating to the management and leasing of the pro shops and snack bar facilities on the golf courses, including the lease with Sun City Pro Shops, Inc., and any contracts for the operation and maintenance of the golf courses and Viewpoint Lake, shall be terminated effective the close of business on May 31, 1977. If any of said contracts are not so terminated, Trustee agrees to indemnify and hold Centers harmless against any debts, liabilities, expenses and obligations which are incurred by Centers by reason of said failure to effectively terminate said contracts.

In addition, Centers shall not be obligated in any manner to purchase, or assume liability for, any inventory, supplies or consignments on hand as of June 1, 1977. Any expenses incurred prior to June 1, 1977, shall be paid by Trustee.

3. It is the understanding of Centers that Trustee shall have, prior to June 1, 1977, increased total annual golf revenues to that level which, when taking into account only those revenues from members of Centers and their guests, shall be equal to or greater than the total annual expenses incurred in the operation and management of the golf courses after taking into account the savings in labor expense and taxes, if any, resulting from possession of the courses by Centers as set forth below. It is the intent of Trustee that the golf courses will be managed in such a way as to match the income derived with the expenses incurred in the operation of the golf courses, thereby making the entire operation attain a break-even point. It is expected that the subsidy provided in paragraph 11 herein, plus the possible savings in labor expenses and taxes resulting from possession of the courses by Centers, will bring the level of the cost of such golf course operation to a point where there should be no immediate increase in golf course rates after May 31, 1977.

4. Trustee also hereby agrees to convey to Centers and Centers hereby agree to accept from Trustee on June 1, 1977, all right, title and interest to the wells, pumps and water distribution systems as more particularly described in Exhibit "B" attached hereto and incorporated by reference. The well, pump and water distribution system located on the Lakes East and Lakes West golf courses presently supplying Viewpoint and Dawn Lakes, shall continue to be used to supply Viewpoint and Dawn Lakes. The evaporation and seepage losses from the lakes

newell

shall be determined by Centers and the owners of property fronting on Viewpoint Lake shall be charged for actual pumping costs as recorded in paragraphs 5, 6 and 7 of the Declaration of Restrictions, Docket No. 7745, Page 669. Such losses and charges are to be determined on the same basis and using the same formula as has been used by the previous title owners of the lake.

5. Trustee shall convey to Centers a water right supplying, to the extent the existing well located at Sunland Memorial Park has the capacity, the golf courses with the same proportionate share of the water from said well now being supplied to the golf courses served. An accurate measuring device on such well will be provided to determine the percentage of water used on the golf courses and the percentage used for other purposes. Centers agrees to pay, to Webb, on a quarterly basis, its proportionate share of the electrical expense, and, on a yearly basis, its proportionate share of operation and maintenance of said well based upon the percentage of water used for the golf courses.

6. Centers agrees to maintain the golf courses in accordance with the standard which has been in existence for the three years prior to the date of transfer. Centers shall provide adequate water, mowing, fertilizing and other maintenance which may be required on the courses and shall maintain an adequate personnel force to assure the standard noted above is met.

7. The covenants, obligations and representations expressed in this Agreement are continuing and shall not become merged in nor be extinguished by the delivery of the deed conveying the premises and the payment of purchase price by

Centers and shall be binding and inure to the benefit of and shall apply to the respective successors, assigns and legal representatives of Trustee and Centers.

8. Centers shall have the right to a final inspection of all of the property listed in Exhibit "A" not ^{more} less than ^{At 12:00, 12. By 5:00.} ninety (90) days before it is proposed to transfer title to ^{RCSC by M.W.U.} said property to Centers pursuant to the terms of this Agreement, it being understood Trustee shall maintain the courses in accordance with the standard that has existed in the three years prior to the date of this Agreement. Centers agrees to accept the premises existing on June 1, 1977, without any obligation upon the Trustee to take any action to prepare the same for use by Centers. Centers further states that its acceptance of the condition of the premises is based entirely upon its inspection and not upon any representations or warranties expressed or made by the Trustee.

9. Trustee shall pay all legal fees incurred by and at the direction of the Centers that are directly allocable to the transfer encompassed in this Agreement, including, but not limited to, fees for legal opinions regarding union contracts and the tax status of the entity to which Trustee or Centers makes any transfer. Trustee shall pay for the title insurance premiums, escrow and recording fees, and charges incurred as a result of this Agreement, including real estate taxes and insurance pro-rated to the date of the transfer of the courses.

10. ~~Centers agrees the Del E. Webb Development Co.,~~ its agents and employees shall have the right to enter into and upon the aforementioned property at all reasonable times for the purpose of exhibiting the same to prospective purchasers of homes in Sun City or Sun City West. Centers agree the aforesaid prospective purchasers may use the golf courses and

facilities and payment for such use shall be made by Del E. Webb Development Co. to Centers in accordance with a fee schedule to be determined by Centers or a separate social club operating the golf courses and facilities; however, in no event shall the fee charged for a prospective purchaser be greater than the lowest daily greens fee paid by a member of Centers for the course played. Such right to play shall be limited to one play per prospective purchaser.

11. For the first twenty-four (24) months after conveyance of the property from Trustee to Centers, Trustee shall pay to Centers, on a quarterly basis, the difference between the amount of expenses incurred in the operation of the golf courses and facilities thereon, and Viewpoint Lake, including personal property purchases therefor, and the income derived from such courses during said period. Income shall be defined as all monies received from any source whatsoever due to the operation of the golf courses or the facilities thereon, including but not limited to membership dues, greens fees, operating surplus from prior quarters; any income derived from the operation of the snack bar and pro shop facilities on the property; and all fees received from Viewpoint Lake owners. Expenses shall mean all normal operating expense categories as shown on the book of Trustee as of January 1, 1975, and shall include, but not be limited to, all salaries, wages, repairs, utilities, maintenance, office and operating supplies, ~~insurance, taxes, and other expenses directly chargeable and~~ properly applicable to the operation of the golf courses and facilities thereon and Viewpoint Lake. Prior to the payment of the subsidy herein provided, Trustee shall review all income and expenses paid by Centers and shall have the right, after consultation with Centers, to reject as an expense allocable to the subsidy, any expense which is not directly related to the operation of the golf courses, facilities,

See Appendix 3-1-75

and Viewpoint Lake. Inasmuch as the golf courses are a major contributor to the maintenance of Viewpoint Lake, Centers agrees that as owner of the golf courses, it shall pay fifty percent (50%) of all maintenance costs of the lake. Such costs shall become part of the total expense for the operation of the golf courses.

12. The use of the golf courses and Viewpoint Lake described in Exhibit "A" is intended primarily for the use of Centers' members and their guests or any separate social club operating the golf courses and facilities.

13. The management of Viewpoint Lake shall be accomplished by a three-man board consisting of the same representatives on the present management board pursuant to the applicable deed restrictions.

IN WITNESS WHEREOF the parties have executed this Agreement by the proper persons duly authorized to do so on the day and year first hereinabove written.

RECREATION CENTERS OF SUN CITY, INC.
(formerly Sun City Community
Association), an Arizona
non-profit corporation

By *Arthur W. Wagoner*
President and Director

ARIZONA TITLE INSURANCE AND TRUST
COMPANY, AS TRUSTEE FOR TRUST #6325

By *Stanley D. McLean*

Approved this 22nd day of September, 1975, by
the Board of Directors of RECREATION CENTERS OF SUN CITY, INC.

William B. Kent
William K. Anderson
Ray
J. W. Lloyd
Edwin W. Dwyer
Philip M. Sander

William Sander
Philip M. Sander

Recy Dept.



10626 THUNDERBIRD BOULEVARD
SUN CITY, ARIZONA 85351

FILED
JUL 15 1982
1052

July 15, 1982

AGREEMENT BETWEEN RECREATION CENTERS OF SUN CITY, INC., AND
SUNLAND MEMORIAL PARK (MATTHEWS CORPORATION) FOR PAYMENT OF
ARIZONA PUBLIC SERVICE BILLS AND MAINTENANCE OF SUNLAND WELL.

- 1. Arizona Public Service Bills: Recreation Centers of Sun City, Inc. (hereinafter referred to as Centers), will pay a percentage to Sunland Memorial Park (Matthews Corporation) (hereinafter referred to as Sunland) based on actual flowmeter readings for the billing period.
 - 2. Repairs and Maintenance to Well: Sunland will pay Centers for repairs and maintenance costs based on the prior year's use ratio.
 - 3. Drip Oil: Will be supplied by Sunland, and Centers will be billed based on prior year's use ratio.
 - 4. Sunland Distribution Pump: Will be maintained by Centers personnel, and Centers will bill Sunland 100% of costs of material, and 100% of costs of labor as determined by Centers.
5. 1981 Use Ratio: 82% Centers
18% Sunland

N/A
we do not maintain their distribution pumps per letter 12/13/76
Rd

Recreation Centers of Sun City, Inc. Sunland Memorial Park (Matthews Corporation)

By: *Richard H. Hollis*
Title: *President*
Date: *July 21, 1982*

By: *William J. Cooper*
Title: *Gen. Mgr. / Manager*
Date: *Aug 5, 1982*