

**AMENDED MEMORANDUM OF UNDERSTANDING BETWEEN THE MOHAVE COUNTY
ATTORNEY AND THE FEDERAL TRADE COMMISSION**

I. Purpose

The purpose of this Amended Memorandum of Understanding ("Amended MOU") between the Mohave County Attorney and the Federal Trade Commission ("FTC" or "Commission") is to revise the terms and conditions of the redress program established pursuant to a 1997 Memorandum of Understanding between the Commission and the Mohave County Attorney ("1997 MOU").

II. Authority

On February 14, 1994, a Consent Decree against Sunbelt Construction Co. became final, *United States v. Sunbelt Construction Co.*, CV 94-0339 PHX EHC (D. AZ, Feb. 14, 1994). In early 1998, the FTC transferred \$530,973 into a redress account to be used to offset some or all of the electric utility installation costs for eligible Valle Vista lot owners. Pursuant to the 1997 MOU, the Mohave County Attorney has had principal responsibility for assessing the eligibility of applicants and authorizing payments to Mohave Electric Cooperative on behalf of eligible applicants.

III. Redress Program

1. *Notice to lot owners:* Within ninety (90) days after the effective date of this Amended MOU, the Commission or its staff will provide written notice to Valle Vista lot owners of the amended redress program.

2. *Redress funds:* This Amended MOU applies to existing funds in an interest bearing account established pursuant to the 1997 MOU and maintained by the Mohave County Attorney (hereinafter referred to as the "Utility Account"). The Utility Account will be administered through the Mohave County Department of Finance and will be subject to periodic County and State audits. The Commission or its staff will transfer to the Utility Account any additional monies it may obtain as a result of further liquidation of outstanding Sunbelt assets.

3. *Purpose of redress program:*

a. For a period of one (1) year after the effective date of this Amended MOU, the Utility Account will be used for two general purposes:

1) *Electric Utility Installation to Individual Lots:* For a period of one (1) year from the effective date of this Amended MOU, a total of \$290,000 in the Utility Account will be available to pay a portion of electric utility installation costs for eligible Valle Vista lot owners, as well as administrative costs associated with the maintenance of the Utility Account and the implementation of the redress program. A Valle Vista lot owner may apply for payment from the Utility Account to Mohave Electric Cooperative of an amount not to exceed \$8,000 per lot to offset "reimbursable costs" (defined in Paragraph IV.1 of this Amended MOU) of electric utility installation by Mohave Electric Cooperative. An individual lot owner may receive payments from the Utility Account for a maximum of three (3) lots over the duration of the redress program since its start in 1997; and

2) *Improvements, Amenities and Facilities in the Valle Vista Subdivision:* The remainder of the funds in the Utility Account, plus any accrued interest, will be used to pay for improvements, amenities and facilities in the Valle Vista subdivision that can reasonably be expected to benefit directly past purchasers of Valle Vista lots that did not receive the improvements, amenities and facilities required under Part IV of the Commission order in Docket C-2903, 102 F.T.C. 1239 (1983).

b. At the end of one (1) year after the effective date of this Amended MOU, all funds remaining in the Utility Account will be used to pay for improvements, amenities and facilities in the Valle Vista subdivision as set forth in Paragraph III.3.a.2) of this Amended MOU.

4. *Depletion of Utility Account:* Under this redress program, funds will be paid from the Utility Account as provided above until all funds are depleted or until the termination of this Amended MOU, whichever occurs first.

IV. Electric Utility Installation to Individual Lots

1. *Definition of "reimbursable costs":* Under this redress program, the "reimbursable costs" of electric utility installation for which an eligible Valle Vista lot owner may seek payment will include the cost of extending electric power lines to the lot and the cost of installing a transformer and/or secondary box on the lot, but will exclude the cost of all conduit, trenching, backfilling, electric wiring from the transformer or secondary box to the residence's electric meter, and electric wiring within the residence. "Reimbursable costs" will not include any costs paid or incurred by the Valle Vista lot owner prior to the effective date of the 1997 MOU.

2. *Eligibility:* To be eligible for payments from the Utility Account, an applicant must meet the following conditions at the time of application:

- a. The applicant owns a lot located in Units 1, 2 or 3 of the Valle Vista subdivision in Kingman, Arizona;
- b. The applicant's Valle Vista lot does not have household electric power available at the lot corner;
- c. The applicant has applied for and received a building permit from Mohave County to build a single family residence on his or her Valle Vista lot (Note: a copy of the permit must be attached to the application);
- d. The applicant has completed the foundation for the single family residence and received a "pass" on inspection by the County Building Inspector (Note: a copy of the inspection approval must be attached to the application);
- e. The applicant has contacted Mohave Electric Cooperative and paid for an electric utility installation estimate that includes an estimate of the actual costs of electric utility installation to the lot (Note: a copy of the electric utility installation estimate must be attached to the application);
- f. The applicant, in applying for funds from the Utility Account, must agree to relinquish, and assign to the Commission, all rights to:
 - 1) Any rebates that may be due from Mohave Electric Cooperative as a result of the installation of electric utilities to his or her lot; and
 - 2) Any refunds that may be due from Mohave Electric Cooperative to the extent that Mohave Electric Cooperative, upon completion of the electric utility installation, determines in an "adjustment to actual cost" that the actual cost of electric utility installation is less than the amount paid from the Utility Account pursuant to Paragraph IV.5 of this Amended MOU for installation of electric utilities to his or her lot;
- g. The applicant may receive funds from the Utility Account for installation of electric utilities to a maximum of three (3) lots over the duration of the redress program since its start in

1997; and

h. The applicant is not the Valle Vista Property Owners Association or any entity owned or controlled by the Valle Vista Property Owners Association.

3. *Application:* To apply for funds from the Utility Account, a Valle Vista lot owner must fill out the attached "Application for Reimbursable Costs" (available from the Mohave County Attorney) and submit the application with all required documents to the Mohave County Attorney. This application includes a statement that the applicant has relinquished rights to certain rebates and refunds as set forth above and an acknowledgment that the applicant has submitted the application under penalty of perjury.

4. *Review of application:* The Mohave County Attorney will assess the eligibility of the applicant, taking appropriate steps to verify eligibility, and will notify the applicant in writing of whether the application has been approved and:

a. If the application is not approved, the Mohave County Attorney will state the reasons for such non-approval;

b. If the application is approved, the Mohave County Attorney will specify the amount of funds that will be paid to Mohave Electric Cooperative from the Utility Account.

5. *Payment:* After approval of an application for funds from the Utility Account and upon receipt, from the applicant, of a copy of the actual cost contract signed by both Mohave Electric Cooperative and the applicant, the Mohave County Attorney will authorize the transfer of monies to Accounts Receivable, Mohave Electric Cooperative, Bullhead City, Arizona 86430, for full or partial reimbursement of the cost of installing electric utilities to the specified Valle Vista lot.

6. *Additional payment:* Upon completion of the electric utility installation to the specified lot, Mohave Electric Cooperative may determine in an "adjustment to actual cost" that a further payment is due from the lot owner because the actual cost of electric utility installation is greater than the estimate set forth in the actual cost contract. To apply for an additional payment, the applicant must fill out the attached "Application for Additional Payment" and submit the application with a copy of the "adjustment to actual cost" to the Mohave County Attorney. If the Mohave County Attorney determines that the initial payment made by the Mohave County Attorney pursuant to Paragraph IV.5 of this Amended MOU was less than \$8,000, the Mohave County Attorney will authorize a second transfer of monies from the Utility Account to Mohave Electric Cooperative, provided, *however*, that the total payments made pursuant to Paragraphs IV.5 and IV.6 of this Amended MOU for the specified lot may not exceed \$8,000 or total reimbursable costs, whichever is less.

7. *Rebates and refunds:* All rebates and refunds relinquished by Valle Vista lot owners pursuant to Paragraph IV.2.f of this Amended MOU above will be deposited into the Utility Account. In the event that the Amended MOU is terminated, such payments will be made to the Commission.

V. Improvements, Amenities and Facilities in the Valle Vista Subdivision

1. *Authority of Mohave County Attorney:* The Mohave County Attorney is authorized to use funds in the Utility Account to pay for improvements, amenities and facilities in the Valle Vista subdivision pursuant to Paragraph III.3 of this Amended MOU.

2. *Recommendations:* The Mohave County Attorney may seek recommendations from the Valle Vista Property Owners Association and others regarding such improvements, amenities and facilities in the Valle Vista subdivision.

3. *Administrative costs:* The Mohave County Attorney may, at his discretion, hire contractors, consultants and others to provide assistance in making determinations regarding improvements, amenities and facilities in the Valle Vista subdivision. Such administrative costs, however, may not total more than \$10,000 in any three-month period.

VI. Record-Keeping

1. *Maintenance of records:* For a period of four (4) years from the effective date of this Amended MOU or one (1) year beyond the date of termination of this Amended MOU, whichever is later, the Mohave County Attorney will maintain and, upon written request, make available for review and copying by the Commission or its staff, copies of all documents submitted by applicants to the redress program, all correspondence relating to the redress program with said applicants and Mohave Electric Cooperative, and documents relating to any expenditures for improvements, amenities and facilities in the Valle Vista subdivision and the Mohave County Attorney's decisions to authorize such expenditures.

2. *Notices to the Commission:* Any notices to the Commission required pursuant to this Amended MOU must be sent first class mail to the Associate Director for Enforcement at Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

VII. Modification or Termination of this Amended MOU

1. *Effective date of Amended MOU:* This Amended MOU becomes effective seven (7) days after signature by both parties.

2. *Modifications to Amended MOU:* In addition, either party to this Amended MOU may request modifications to this Amended MOU. Such requests will be discussed and negotiated between the parties in good faith. Any such modifications to this Amended MOU will be in writing and signed by both parties.

3. *Termination of Amended MOU:*

a. This Amended MOU automatically terminates three (3) years from its effective date. It may be renegotiated at that time or it may be extended by an addendum signed by both parties. In addition, either party may terminate this Amended MOU, but must give the other party written notice at least thirty (30) days prior to the effective date for the termination and a reason for the termination.

b. Upon depletion of the Utility Account or termination of the Amended MOU, whichever occurs first, the Mohave County Attorney will close the Utility Account and return any remaining funds to the Commission. Within sixty (60) days after closing the Utility Account, the Mohave County Attorney will provide to the Commission a final accounting for the Utility Account.

Date: _____

WILLIAM J. EKSTROM, JR.
County Attorney
Mohave County
Kingman, Arizona

By direction of the Commission.

J. HOWARD BEALES, III
Director
Bureau of Consumer Protection
Federal Trade Commission
Washington, D.C.