



Letter of Intent by and between the City of Hesperia and Fenner Gap Mutual Company

RECITALS

- a) The City of Hesperia is known as the Gateway to the High Desert with a population over 100,000 and one of the most desirable places to live in California's Mojave Desert region.
- b) The City of Hesperia obtains its water supply almost entirely from pumped groundwater from the Mojave River Groundwater Basin and is connected to the Mojave Water Agency's Regional Recharge and Recovery (R3), a conjunctive use project that stores State Water Project (SWP) water underground in the local aquifer and has invested in recycling, storm water capture, water use efficiency and water retention programs to conserve and manage water supplies for the long term needs of its residents.
- c) Fenner Gap Mutual Water Company ("Fenner Gap") is a non-profit mutual benefit corporation formed in 2010 for purposes of managing and distributing 2.5 million acre-feet of groundwater resources from the Cadiz Water Conservation, Storage and Supply Project in the Cadiz Valley region of San Bernardino County ("Cadiz") and is a member of Fenner Valley Water Authority.
- d) Victor Valley Wastewater Reclamation Authority (VWRA) is a Joint Powers Authority providing wastewater treatment, water recycling, and renewable green energy, and treats about 12 million gallons of wastewater per day, whose members include the City of Victorville, City of Hesperia, Town of Apple Valley, and San Bernardino County Special Districts 42 and 64.
- e) Fenner Valley Water Authority is a Joint Powers Authority whose members include the County of San Bernardino, Fenner Gap and other public water agencies.
- f) Fenner Gap and Cadiz own and manage groundwater resources in Mojave Desert watersheds adjacent to the regions served by VWRA and 220-miles of buried pipelines that can directly connect new waters supplies to groundwater recharge basins in the Mojave Groundwater Basin.
- g) The Mojave-San Bernardino County One Water Project is collaboration among public water agencies in San Bernardino County to develop a regional, integrated and sustainably-managed water system that considers the current and future needs of all its users, meets human needs with environmental best practices, and makes cost-effective investments in infrastructure to preserve access and affordability for all.

NOW THEREFORE, in consideration of the foregoing recitals, the Parties will exercise good faith and reasonable best efforts to convert this Letter of Intent ("LOI") into a final definitive public, private, partnership agreement ("Agreement") in collaboration with other participating agencies.

The key terms of the Agreement are as follows:

Subject to the approval of and terms and conditions imposed upon the Parties by their respective governing boards, shareholders, member agencies and/or applicable law:

1. The City of Hesperia will participate in the Mojave-San Bernardino One Water Project and collaborate with other participating agencies in the design, development, construction, and operation of water infrastructure facilities necessary to utilize all potential sources of water to create water security, climate resiliency and equitable distribution of water resources in Mojave Basin and other connected regions in San Bernardino County.
2. The City of Hesperia will participate with Fenner Gap, VVWRA and other public agencies in coordinating the financial, technical, and managerial resources of all entities participating in the Mojave-San Bernardino One Water project to optimize and access maximum available financial resources.
3. Fenner Gap will make available groundwater resources from the Cadiz Water Conservation, Supply and Storage Project in Cadiz Valley to entities participating in Mojave-San Bernardino County One Water for purposes of groundwater replenishment, water supply reliability and ecosystem preservation.
4. Fenner Gap and the City of Hesperia will exercise good faith and reasonable efforts to enter into an Agreement for delivery of 75,000 acre-feet of groundwater supply for the benefit of the City of Hesperia on substantially similar terms and conditions as contained in the attached Exhibit A - Non-Binding Term Sheet.

Signatures



Rachel Molina, City Manager
City of Hesperia

Date 5. 8. 24



Susan P Kennedy, President
Fenner Gap Mutual Water Company

Date 6.5.24

EXHIBIT A
Term Sheet for Purchase, Sale and Exchange of Water
By and Between Fenner Gap Mutual Water Company and the City of Hesperia

This term sheet (“**Term Sheet**”) is intended to be a summary of a proposed transaction and as such does not represent nor constitute a binding commitment by any person or entity named herein.

I. Parties	
FGMWC	Fenner Gap Mutual Water Company is a non-profit mutual benefit corporation established in 2010 pursuant to California Public Utilities Code Sections 2704 and 2705 for purposes of managing and distributing groundwater resources from the Cadiz Water Conservation, Storage and Supply Project in eastern San Bernardino County (“Water Project”).
City of Hesperia	The City of Hesperia obtains its water supply almost entirely from pumped groundwater from the Mojave River Groundwater Basin, is connected to the Mojave Water Agency’s Regional Recharge and Recovery (R3), a conjunctive use project that stores State Water Project (SWP) water underground in the local aquifer to ensure sustainable water supply for the region.
Cadiz	Cadiz, Inc. is the owner of approximately forty-five thousand (45,000) acres of land in eastern Mojave Desert with permits to withdraw an average of 50,000 acre-feet per year (AFY) of conserved groundwater over a 50-year period pursuant to a certified Final Environmental Impact Report (“Project FEIR”) and Groundwater Management, Monitoring and Mitigation Plan (“GMMMP”) approved by San Bernardino County. Cadiz also holds rights-of-way for the construction of up to an eighty-four inch, 43-Mile Pipeline (“Southern Pipeline”) for the conveyance of conserved water to the Colorado River Aqueduct (“CRA”) and owns a thirty-inch, 220-mile, existing buried pipeline originating at Cadiz with a terminus at Wheeler Ridge (“Northern Pipeline”).
San Bernardino County	San Bernardino County is a political subdivision of the State of California (“County”), Responsible Agency under the California Environmental Quality Act (CEQA) pursuant to the Project FEIR with oversight and enforcement responsibilities for the Water Project pursuant Resolution No. 2012-176 adopted by the County approving the GMMMP. The County is also a Project Participant with reserved rights for delivery of 25,000 AF and other specified amounts of Project Water to eligible communities.
FVWA	Fenner Valley Water Authority is a joint powers agency between FGMWC, San Bernardino County (“County”) and Santa Margarita Water District whose purpose is to lease, maintain and own the facilities and associated appurtenances necessary to convey and deliver water from the Water Project (“Capital Facilities”) and provide oversight for operation of the Water Project in accordance with the GMMMP.
SMWD	Santa Margarita Water District (“SMWD”) is a California Water District, a local agency of the State of California with broad powers under the California Water District Act, Cal. Water Code §§ 34000 et seq. and Lead Agency under CEQA pursuant to the Project FEIR. SMWD also serves as the “designated entity” of FVWA under California Government Code Section 6509 and is a Project Participant.

II. Water Project	
Water Project	“Water Project” means the Cadiz Valley Water Conservation, Recovery and Storage Project including all permits and rights pursuant to the Project FEIR and GMMMP approved by the County to deliver conserved groundwater from Cadiz for beneficial uses via the CRA, the Southern Pipeline and/or the Northern Pipeline. “Project Participants” means end users entitled to receive water from the Water Project.
Project Water	“Project Water” means groundwater produced and deliverable to end users from the Water Project, up to an average of fifty thousand (50,000) AFY and aggregating to two million, five hundred thousand (2,500,000) acre-feet cumulatively over the 50-year Water Project term.
Tier 1 Water	“Tier 1 Water” means that amount of Project Water reserved for delivery to end users pursuant to water purchase agreements that include firm capacity rights for the use of Capital Facilities necessary to deliver Project Water to points of delivery designated by Project Participants.
Tier 2 Water	“Tier 2 Water” means that amount of Project Water in excess of the total, aggregated amount of Project Water reserved for delivery to end users pursuant to all water purchase agreements cumulatively over the Water Project term.
Firm Pipeline Capacity	Firm Pipeline Capacity means the right to transport Project Water through the Northern or Southern Pipeline or other facilities in accordance with the terms, conditions and procedures established by FGMWC and FVWA for all shareholders of FGMWC. FGMWC shareholders pay pro-rata fees for capital and operating expenses in accordance with take-or-pay water purchase agreements.
Space Available Pipeline Capacity	Space Available Pipeline Capacity means the right to transport Project Water through the Northern or Southern Pipeline or other facilities on a space available basis. Project water would be delivered to designated points of delivery via Capital Facilities when space is otherwise not required to meet firm commitments for Project Water. Project Participants pay actual incremental cost to convey Tier 2 Water to designated points of delivery upon actual use of pipeline capacity.
Capital Facilities	“Capital Facilities” means any and all facilities deemed necessary, advisable or appropriate to extract, convey or deliver Project Water to Project Participants, including facilities associated with the Southern Pipeline and the Northern Pipeline.
Third-Party Financing	“Third-Party Financing” means financing obtained from private and public sources to fund the design and construction costs of the Capital Facilities. Third-Party Financing arranged by FGMWC, FVWA and/or any joint financing authority formed by Project Participants will be secured and repaid from revenues generated by the Water Project.
III. Proposed Transaction	
Tier 2 Water Supply	Hesperia will purchase up to seventy-five thousand acre-feet (75,000 AF) of Tier 2 Water under terms and conditions to be agreed upon by the parties. Hesperia will assume responsibility and cost for transportation, delivery, storage and exchange of any purchased Tier 2 Water Supply.

Point of Delivery and Exchange	Project Water will be made available for conveyance through Capital Facilities, including the Northern or Southern Pipeline, at points of delivery designated by Hesperia, or via exchange, provided that in the event of an exchange, the Parties have identified a willing exchange partner and are in mutual agreement as to the terms of the delivery or exchange.
Price	For Tier 2 Water Supply – Hesperia will be responsible for the actual incremental costs for extraction, conveyance, delivery, and/or exchange of Tier 2 water supply. Hesperia will pay FGMWC for actual incremental costs to extract and convey Tier 2 Water to designated points of delivery upon actual use of Capital Facilities on a space available basis. The parties shall agree to adjust the price of water under this Section in consideration for Hesperia participating in Third Party Financing for Capital Facilities.
Term	The term of the Definitive Agreement will begin on the date of execution and terminate forty (40) years from Cadiz' issuance of written notice of completion of construction for the segment of the Northern Pipeline necessary to convey Project Water to a point of delivery designated by Hesperia.
Reservation Fee	FGMWC will provide Hesperia with a written invoice for reservation of Project Water upon execution of a Definitive Agreement. Hesperia shall pay Cadiz a reservation fee of twenty-five thousand dollars (\$25,000) fully creditable against the purchase price within thirty (30) days of the receipt of the invoice.
IV. Conditions Precedent	
Regulatory Compliance	FGMWC, FVWA, Hesperia and/or Cadiz obtain all necessary permits for construction of Capital Facilities, conveyance and delivery of Project Water to points of delivery designated by Hesperia.
Third-Party Financing	FGMWC, FVWA and/or Cadiz obtain Third-Party Financing for construction of Capital Facilities on terms and conditions satisfactory to FGMWC, FVWA, Hesperia and Cadiz.
Exchange Agreements	FGMWC, FVWA, Hesperia and/or Cadiz secure exchange agreements with public water agencies necessary to facilitate conveyance and delivery of Project Water on terms and conditions satisfactory to Hesperia and FGMWC in each party's sole and complete discretion.