

Purchase and Sale Agreement for Long-term Storage Credits

This agreement ("Agreement") is made this 4th day of September, 2008 between Fidelity National Title Trust #10773, formed and existing under the laws of the State of Arizona ("Seller") and the Central Arizona Water Conservation District ("CAWCD"), a multi-county water conservation district organized and existing under the laws of the State of Arizona ("Buyer").

Recitals

1. Buyer operates the Central Arizona Project ("CAP"). Buyer also provides replenishment services to member lands and member service areas under authorities provided in Title 48, Chapter 22, Article 4 of the Arizona Revised Statutes ("A.R.S."). These replenishment authorities are commonly referred to as the Central Arizona Groundwater Replenishment District or CAGRD. CAGRD is not a separate legal entity, but functions within and is operated by Buyer CAWCD.
2. "Long-term storage credit" shall have the meaning as defined in A.R.S. Section 45-802.01-11.
3. Buyer desires to purchase long-term storage credits developed by Seller pursuant to A.R.S. Title 45, Chapter 3.1, for the benefit of CAGRD member lands and member service areas.
4. Seller is willing to sell and transfer certain long-term storage credits in the amounts, at the delivery times and for the prices specified below.

Agreement

In consideration of the promises and undertakings contained herein, the adequacy of which is agreed by both Seller and Buyer to be sufficient, Seller agrees to sell, transfer and assign and Buyer agrees to purchase, accept and pay for the following described property and/or rights, whether real, personal, or contractual (consisting of long-term storage credits), and all rights appurtenant thereto:

Year One – 3,400 acre-feet of long-term storage credits for delivery January 1, 2009

Year Two - 2,500 acre-feet of long-term storage credits for delivery January 1, 2010.

Such long-term storage credits shall be sold, transferred, assigned and delivered by Seller and purchased, accepted and paid for by Buyer pursuant to the following terms and conditions.

A. Type of Water. Seller covenants that all of the long-term storage credits to be sold pursuant to this Agreement were accrued through storage of water from the source identified in Section B.4 of this Agreement. It is the intent of the parties that all credits purchased and sold hereunder shall retain such identity. If the long-term storage credits to be sold were accrued through the underground storage of CAP Water, seller agrees not to order or purchase Incentive Recharge CAP water within two years after the last date that credits are transferred under this agreement.

B. Source of Credits. The long-term storage credits to be sold by Seller are from:

1. Arizona Department of Water Resources ("ADWR") Long-Term Storage Account No. 70-411190
2. ADWR Facility Permit Number 72-538100.0004, such facility being located in the Tucson Active Management Area

3. ADWR Water Storage Permit Number 73-538100.01
4. Source of water used to generate long-term storage credits - CAP

C. Number and Year of Credits. The number of long-term storage credits (in acre-feet) to be transferred and year credits were earned are as follows:

1. For delivery in 2009 3,400 acre-feet; year earned 1999
2. For delivery in 2010 2,500 acre-feet; year earned 1999.

D. Purchase Price.

1. 2009 deliveries - \$128/acre-foot X 3,400 acre-feet = \$435,200
2. 2010 deliveries - \$135/acre-foot X 2,500 acre-feet = \$337,500

E. Time and Manner of Transfer of Credits. Seller and Buyer shall complete and sign the ADWR's "Long-Term Storage Credit Transfer Form A.R.S. § 45.854.01", a copy of which is attached as Exhibit A, or if that form is no longer used by ADWR, a successor ADWR form or other form that is satisfactory to Buyer in its reasonably exercised discretion, i) no later than January 15, 2009 for the 3,400 acre-feet to be transferred in 2009; and ii) no later than January 15, 2010 for the 2,500 acre-feet to be transferred in 2010.

After Seller has executed and delivered a credit transfer form to Buyer, Buyer shall promptly deliver the fully executed credit transfer form to ADWR.

If Buyer determines that a separate conveyancing document (such as a deed and/or bill of sale) is necessary for the transfer of the long-term storage credits, Seller shall execute such a conveyancing document that is satisfactory to Buyer in its reasonably exercised discretion. Seller shall process and deliver all necessary transfer documents at no cost to Buyer.

F. Delivery Complete - Payment. Delivery of the long-term storage credits in 2009 and 2010 shall be deemed complete when the ADWR has transferred the credits from Seller's Long-Term Storage Account specified in Section B.1. into Buyer's "CAGR Conservation District Account" number 75-411120. Seller and Buyer shall cooperate with each other and with the ADWR to facilitate completion of such transfers by ADWR. Buyer shall pay the amounts specified in Section D. of this Agreement no later than twenty (20) business days after receiving adequate evidence that ADWR has completed the transfer of credits to Buyer's account. In the event that ADWR has not transferred the credits to Buyer's account within six (6) months after submission of the transfer form, pursuant to paragraph E above, either Buyer or Seller may terminate this Agreement by giving ten (10) days' written notice to the other party.

G. Rejection or Invalidation of the Transfer of Credits by ADWR. If ADWR, pursuant to A.R.S. § 45-854.01(C), rejects or invalidates any transfer and assignment of long-term storage credits made hereunder prior to any payment by Buyer, Buyer shall not be obligated to pay for the number of credits affected by such rejection or invalidation. If such rejection or invalidation occurs after payment has been made by Buyer, Seller shall refund an amount equal to the number of credits affected by such rejection or invalidation times the price per acre-foot for the affected credits within twenty (20) business days after either Buyer or Seller receives any notice of rejection or invalidation from ADWR. Buyer shall transfer and assign back to Seller the number of credits affected by any such rejection or invalidation if necessary. Seller's obligation to refund any payments under this paragraph shall expire thirty (30) days after ADWR

has issued a non-appealable final agency decision approving the transfer and assignment of the long-term storage credits into Buyer's CAGR Conservation District Account number 75-411120.

H. CAWCD Board Approval. This Agreement is subject to and expressly conditioned upon approval by the Board of the CAWCD. Such Board approval shall apply to all transfers of credits identified in Section C of this Agreement.

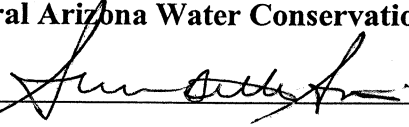
I. Miscellaneous.

1. This Agreement shall be governed by and construed pursuant to the laws of the State of Arizona, without regard to its conflicts of laws provisions. Any action to resolve any dispute regarding this Agreement shall be taken in a state court of competent jurisdiction located in Maricopa County, Arizona. The Parties agree to waive all rights to a jury trial.
2. Time is of the essence in the performance of this Agreement
3. Seller warrants that it has good and marketable title to the long-term storage credits that are the subject of this Agreement and agrees to convey marketable title to such long-term storage credits free and clear of all liens and encumbrances. Seller shall warrant and defend the title against all persons whomsoever.
4. The parties agree that if a party fails to perform its obligations under this Agreement, other remedies will not be sufficient and the parties agree that, in addition to other available remedies, the remedy of specific performance shall be available to the aggrieved party.
5. This Agreement may not be amended except by written instrument signed by the parties.
6. This Agreement constitutes the entire agreement of the parties with respect to the subject matter thereof and supersedes all prior written and oral agreements, understandings and negotiations between the parties with respect to the subject matter hereof.
7. No delay in exercising any right or remedy shall constitute a waiver unless such right or remedy is waived in writing signed by the waiving party. A waiver by any party of any right or remedy hereunder shall not be construed as a waiver of any other right or remedy, whether pursuant to the same or a different term, condition or covenant.
8. The provisions of Sections H.1., H.2., H.3. and H.4. shall survive the completion or termination of this Agreement.

CAWCD/Fidelity National Title Trust #10773
Purchase and Sale Agreement for Long-term Storage Credits

In Witness Whereof, the authorized representatives of Buyer and Seller have executed this Agreement, as set forth below.

Central Arizona Water Conservation District

By 

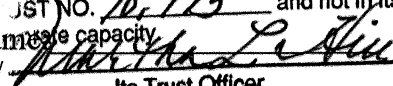
Print Name: Susan Bitter-Smith

Title: President

Date: 9/4/08

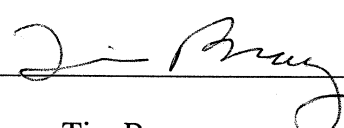
Fidelity National Title Trust #10773

By FIDELITY NATIONAL TITLE AGENCY, INC.
an Arizona corporation as TRUSTEE Under
JUST NO. 10-773 and not in its

Print Name: 
in its capacity as
y Martha L. Hill
its Trust Officer

Title: MARTHA L. HILL

Date: 10-21-08

Attest 

Print Name: Tim Bray

Title: Secretary Pro-Tem

Date: 9/4/08