

NON-BINDING MEMORANDUM OF UNDERSTANDING

BETWEEN THE CITY OF AMARILLO, TEXAS AND FERMI AMERICA, INC

This NON-BINDING Memorandum of Understanding (the "MOU") is entered into and by and between the City of Amarillo, Texas (CITY), a home rule municipality of the State of Texas, with its principal office at 623 South Johnson Street, Amarillo, Texas 79101, and Fermi America, Inc. (FERMI), a Delaware incorporated company with its principal office at 620 South Taylor, Amarillo, Texas 79101.

CITY and FERMI may be referred to individually as a "Party" and collectively as the "Parties."

WHEREAS, the CITY has secured and developed water supplies necessary to provide continuous and adequate service to its residential, commercial and industrial customers within the incorporated limits; and

WHEREAS, the CITY has water resources that it can deploy to promote the economic development of the City and its surrounding region; and

WHEREAS, FERMI desires to develop its Independence Advanced Energy and Intelligence Campus ("Project Site") and to secure water from the CITY to aid in that development; and

WHEREAS, the CITY and FERMI anticipate entering into multiple improvement agreements, pursuant to which FERMI will construct and install pipeline infrastructure ("Public Improvements") necessary for the CITY to provide continuous and adequate service to the Project Site, which infrastructure will enhance further development benefiting the public; and

WHEREAS, incorporating private investment entirely at the cost and expense of FERMI into public water delivery infrastructure projects can provide essential funding to upgrade aging systems, improve water quality and reliability, and ensure sustainable access to water for residential and commercial customers for years to come while lessening the burden on Amarillo taxpayers for the costs and expense of the same; and

WHEREAS, the Parties rely on the above recitations in their decision to enter into this non-binding MOU.

ARTICLE I

PURPOSE

This MOU is intended to establish a good-faith foundation for future discussions and collaboration between the CITY and FERMI regarding possible water procurement giving due regard to the present and future needs of the CITY and is not a legally binding agreement.

ARTICLE II

OBJECTIVES

This MOU expresses the Parties' mutual intent to explore and evaluate one or multiple agreements for the CITY to provide up to 10 million gallons per day (MGD) of potable water to FERMI in three phases at the Project Site in accordance with the following approximation:

A. 2.5 MGD no later than January 31, 2026, contingent upon mutually agreeable terms duly adopted by the CITY's governing body and completion of design and construction of the Public Improvements presently under design by FERMI's consulting engineer, Parkhill; and.

B. An additional 3.0 MGD by May 31, 2026, contingent upon mutually agreeable terms duly adopted by the CITY's governing body and completion of design and construction of the Public Improvements presently under design by FERMI's consulting engineer, Parkhill; and

C. An additional 3.0 to 4.5 MGD by January 31, 2027, contingent upon mutually agreeable terms duly adopted by the CITY's governing body and completion of design and construction of the Public Improvements presently under design by FERMI's consulting engineer, Parkhill.

ARTICLE III.

GOOD FAITH COOPERATION AND COORDINATION DURING DESIGN AND CONSTRUCTION

The CITY and FERMI will meet in good faith on an as-needed basis to coordinate the design and construction of the Public Improvements and pledge to identify and resolve any possible areas of conflict as soon as practical to the benefit of both Parties and the region.

The scope of the Parties' cooperation and coordination under this MOU includes, but is not limited to:

- Information Exchange: Sharing data and reports related to water resources, including technical, operational, and environmental information.
- Technical Studies: Cooperating and coordination related to any engineering, design, construction plans, infrastructure assessments, or feasibility studies necessary to determine the viability of a water supply agreement or agreements.
- Preliminary Negotiations: Engaging in good-faith discussions to negotiate the terms of a definitive, legally binding agreement or agreements which will be approved by the City Council.
- Regulatory Review: Discussing and evaluating any necessary permits, approvals, or regulatory compliance required for the provision and delivery of water.

ARTICLE IV

FERMI'S CONTEMPLATED OBLIGATIONS

FERMI shall be solely responsible for the design and construction of all Public Improvements necessary to enable the CITY to deliver the quantities of water set forth in Article II with said design, construction, and installation to be solely at FERMI's expense giving due regard to CITY specifications and necessary design input in accordance with a notice and consultation period to be specified by the Parties by written agreement.

ARTICLE V

CITY CONTEMPLATED OBLIGATIONS

The CITY will furnish the quantities of water set forth in Article II to FERMI at a rate of one and one-half times (1.5) the rate or higher that the CITY charges to a connection of like size within the City's incorporated limits.

ARTICLE VI

EFFLUENT SUPPLIES

It is neither contemplated nor intended for this MOU to infer any attempt by FERMI to appropriate or acquire effluent discharged by the Hollywood Road Wastewater Treatment Plant to Lake Tanglewood that has already been specifically allocated by prior agreement by the CITY.

ARTICLE VII

NON-BINDING INTENT

This MOU is a declaration of intent and is not legally binding or enforceable. The Parties acknowledge and agree that:

- This MOU does not create any legal rights, obligations, or responsibilities, either substantive or procedural.
- The Parties are not obligated to expend any funds or enter into any definitive agreement based on this MOU.
- No legally binding commitment shall exist between the Parties unless and until a separate, formal, written contract is executed by both Parties after being duly adopted by the City Council in a public meeting.
- Either Party may terminate its participation in discussions at any time, for any reason, with no liability or obligation to the other Party.

ARTICLE VIII
CONFIDENTIALITY

The Parties agree to maintain the confidentiality of any information shared during the course of their collaboration under this MOU. "Confidential Information" means any non-public information disclosed by one Party to the other, whether written or oral, that is designated as confidential. Confidential information shall include, but not be limited to, drawings, profiles, or plans presented by either Party prior to or after construction. FERMI acknowledges that the City is a governmental entity subject to the Texas Public Information Act, Texas Government Code Chapter 522. In the event that the CITY receives a request for public information that would include the confidential information described herein, the CITY will provide the notice required by law to FERMI.

ARTICLE IX.
TERM AND TERMINATION

This MOU will become effective on the date it is signed by both Parties and will remain in effect unless terminated earlier by either Party. Either Party may terminate this MOU by providing 60 days' written notice to the other Party. The termination of this MOU will not affect the confidentiality obligations outlined herein.

ARTICLE X
ENTIRE UNDERSTANDING

This MOU represents the entire understanding between the Parties concerning the subject matter described herein and supersedes all prior discussions, agreements, and understandings, whether oral or written and may not be amended or modified except in writing by the Parties.

ARTICLE XI
NO WAIVER OF IMMUNITY OR LEGAL RIGHTS

This MOU does not create any right, benefit, or cause of action for any third Party. By executing this Agreement, no Party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

ARTICLE XII
NO JOINT VENTURE

This MOU shall in no way be construed as, or be deemed to constitute, the creation of a joint venture, partnership, or other business combination between Parties.

ARTICLE XIII

NOTICE

All notices and communications under this MOU shall be sent to following representatives of the Parties:

CITY

Attn: Grayson Path, City Manager or his designee

CITY OF AMARILLO

623 S. Johnson St.

Amarillo, Texas 79101

FERMI

Attn: Charlie Hamilton

Fermi America, Inc.

620 South Taylor

Amarillo, Texas 79101

IN WITNESS WHEREOF, the Parties have executed this Non-Binding Memorandum of Understanding as of the effective date as described above and may be executed in several counterparts, each of which is deemed to be original.

CITY OF AMARILLO, TEXAS



By: Grayson Path
City Manager
City of Amarillo

FERMI AMERICA, Inc.



By: Charlie Hamilton
Title: Authorized Signer

ATTEST:



Stephanie Coggins
City Secretary