

FIRST AMENDMENT TO EXTRA-TERRITORIAL EMERGENCY SERVICE AND OFFSITE INFRASTRUCTURE AGREEMENT

THIS FIRST AMENDMENT TO THE EXTRA-TERRITORIAL EMERGENCY SERVICE AND OFFSITE INFRASTRUCTURE AGREEMENT (Amendment) is made and entered into as of this _____ day of _____, 2019, between the CITY OF FRESNO, a California municipal corporation (CITY), and CLOVIS HILLS COMMUNITY CHURCH OF CLOVIS, CALIFORNIA, a California Corporation (CLOVIS HILLS).

RECITALS

WHEREAS, the CITY and CLOVIS HILLS entered into the "Extra-Territorial Emergency Service And Offsite Infrastructure Agreement Between Clovis Hills Community Church And City Of Fresno" effective August 26, 2010 (Agreement), which was recorded by Fresno County on September 11, 2010;

WHEREAS, the Agreement set forth conditions under which the CITY would provide temporary emergency water service to CLOVIS HILLS, despite CLOVIS HILLS' location within the City of Clovis sphere of influence;

WHEREAS, in recognition that the City's water supply is limited, CLOVIS HILLS covenanted it would not construct any additional buildings, facilities, or structures which would increase water usage during the period of time it is connected to CITY's municipal water services as a temporary water supply for emergency use;

WHEREAS, each year the Agreement has been effective, CLOVIS HILLS has utilized no more than approximately 62% of the annual water usage contemplated in the Agreement;

WHEREAS, CLOVIS HILLS now desires to add a preschool to its location, which it estimates would still leave CLOVIS HILLS' annual water usage significantly below that estimated in the Agreement; and

WHEREAS, the CITY and CLOVIS HILLS now desire to modify the Agreement to allow CLOVIS HILLS to construct a pre-school without breaching the Agreement, as set forth below.

AMENDMENT

NOW, THEREFORE, based upon the above recitals, which are incorporated into this Amendment as though set forth below, the parties amend the Agreement as follows:

1. Agreement Paragraph A(10) is amended as follows:

10. No Additional CITY Water Services for Expansion or Improvement of Property. CLOVIS HILLS acknowledges this Agreement allows it obtaining temporary emergency water service from CITY to the

Property until City of Clovis water facilities are available to service the Property as specified in Paragraphs A(11) or A(12). CLOVIS HILLS also acknowledges CITY's 2025 General Plan does not contemplate the additional water service to CLOVIS HILLS and CITY's water supply is limited. CLOVIS HILLS hereby covenants it will not construct any additional buildings, facilities, structures, landscaping, or engage in any other use of the Property resulting in an increase in the level of water usage during the period of time it is connected to CITY's municipal water services as a temporary water supply for emergency use as set forth in Paragraph A(12). **[As the sole exception to the restriction set forth in this section, CLOVIS HILLS may construct a preschool, subject to all applicable laws and requirements of the state, Fresno County and City of Clovis, so long as such preschool does not cause CLOVIS HILLS to require more water in any year, than the annual water quantity estimated in Paragraph A(5) of this Agreement.]** If CLOVIS HILLS becomes a permanent customer as set forth in Paragraphs A(12) and (13), the CITY will consider an amendment requiring CITY Council approval to this Agreement allowing for additional buildings, facilities, structures, landscaping, or engage in any other use of the Property resulting in an increase in the level of water usage. To the extent possible, CLOVIS HILLS shall ensure the Property shall utilize surface water, if any, for irrigation needs.

2. This Amendment shall become part of and subject to the terms and conditions of the Agreement, which except as modified herein, remains unchanged and in full force and effect.

4. Should any term or condition expressly set forth in this Amendment conflict with the terms and conditions of the Agreement, the terms and conditions expressly set forth in this Amendment will prevail.

5. By signing below, the undersigned certify that they have read and understand, and agree to be legally bound by, this Amendment.

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IN WITNESS WHEREOF, the parties have executed this Amendment, at Fresno, California, the day and year first above written.

CITY OF FRESNO,
a California municipal corporation

By: _____
Michael Carbajal
Director of Public Utilities

CLOVIS HILLS COMMUNITY
CHURCH,
a California corporation

By: _____
Shawn Beaty
Senior Pastor

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____
Amanda Freeman, Senior Deputy

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

Addresses:

City of Fresno
Attn: Robert A. Diaz
2600 Fresno St., Room
Fresno, CA 93721
559-621-1623

Clovis Hills Community Church
Attn: David Cameron
10590 N Willow Ave
Clovis, CA 93619
559-297-2600