

RECORDING REQUESTED BY:

City of Merced, A California Charter Municipal Corporation

WHEN RECORDED MAIL TO:

City of Merced
City Clerk
678 West 18th Street
Merced, California 95340

**Exempt Recording Per Gov't Code
Section 6103**

(Above for Recorder's Use Only)

**AGREEMENT AFFECTING REAL PROPERTY
AND COVENANT TO ANNEX
(WATER CONNECTION AGREEMENT)**

THIS AGREEMENT is made and entered into this _____ day of _____, 2016, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, (hereafter to referred to as "City"), and St. Paul Evangelical Lutheran Church (hereafter referred to "Owner") whose address of record is 2916 McKee Road, Merced, California 95341.

WHEREAS, Owner is the owner of real property in the unincorporated area of the County of Merced identified under Paragraph 14 of this Agreement, which property is contiguous to City; and

WHEREAS, City furnishes water service to properties outside the City limits in emergency situations or exceptional cases, such as well failure, where public health and safety is jeopardized in accordance with City General Plan Policy 3.1.g; and,

WHEREAS, the property already receives fire hydrant water service, pursuant to a Water Connection Agreement dated August 1, 1994; and

WHEREAS, in exchange for domestic water service, Owner agrees to the annexation of the real property, identified under Paragraph 14 of the Agreement, to the City; and

WHEREAS, Owner desires and has heretofore in writing requested City to furnish domestic water service to his real property; and

WHEREAS, City is willing to furnish said domestic water service upon the terms hereinafter set forth.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. COVENANTS RUNNING WITH THE LAND. City agrees to furnish domestic water service for the benefit of Owner's real property hereinafter described. The obligations of Owner stated in this Agreement are covenants running with the land, and are intended by City and by Owner to be binding upon Owner and Owner's heirs, administrators, assignees and successors in interest in the land described herein.

2. COVENANT TO ANNEX. Owner hereby covenants and binds himself and his successors in interest to annex said real property to City when the City Council determines that such annexation shall be made, and Owner hereby acknowledges that this writing is a request and a consent by him to so annex the said real property, and Owner for himself and his successors in interest further agrees not to protest annexation of said property either by itself or as part of a larger parcel of land and hereby specifically waives the provisions of all sections of law now existing or hereafter to be enacted permitting protests to be filed in annexation proceedings.

3. FACILITIES CHARGE. Owner agrees to pay City a water facilities charge appropriate for the nature and extent of the intended use of the property, in such amount as is established by the City ordinance in effect at the time of connection to the water system.

4. CHARGE FOR SERVICE. Owner agrees to pay water service charge at metered rate in such sum as from time-to-time may be established by the City Council.

5. LINE EXTENSION CHARGE. Owner agrees to pay City, at the time the application is made, such sum as is estimated to cover the cost of labor, materials, equipment and overhead needed in making the water connections and extending same to the property line.

At the option of City, in lieu of the water line extension charge, Owner agrees at his own expense to cause a water line, of such size as shall be determined by City engineer, to be constructed and installed according to City standards, at such location as shall be determined by City engineer as necessary or desirable to serve Owner's property and comply with City extension requirements.

6. SUBSEQUENTLY ENACTED OR ADOPTED CHARGES. If the City Council shall hereafter increase or enact or adopt any other charges, fees or other requirements related to water service, annexation or any other aspect of the subject matter of this Agreement, Owner agrees to pay or perform the same, in the same manner, and to the same extent, as any other person similarly situated.

7. INTENDED USE OF PROPERTY. Owner's intended use of said property is a church with preschool and elementary school classrooms, and said water service charge and water facilities charge are based on such use only, and water service for any other use shall require further approval by City, and if so approved, will be charged for in accordance with the charges then in effect. City may impose other or different conditions upon such approval, or may deny the same in City's sole discretion. The City Council has the right to delegate authority to one or more designated persons to amend this Agreement as to the type of use or the number of connections which may be made. Until or unless such delegation of authority is affected by resolution or ordinance, amendment of this Agreement requires the approval of the City Council.

8. CONFORMANCE WITH CITY ORDINANCES. Owner agrees to cause all future improvements and construction on said property to conform to the subdivision, zoning, housing, plumbing, electrical, building, fire, park dedication and other codes, ordinances and regulations of City, including payment of fees stipulated therein. In addition, all applicable requirements of Title 15 of the Merced Municipal Code dealing with the water system of the City of Merced are incorporated herein by reference.

9. DEDICATION FOR PUBLIC USE. Owner agrees to dedicate to public use, at no cost to City, and without any demands, conditions or requirements, any easements, streets, alleys or other public ways which the Planning Commission and/or the City Council find necessary and desirable for the future development of the property or for the protection and maintenance of utilities.

10. CONSENT TO PAY TAXES UPON ANNEXATION. Owner, by this writing, consents upon annexation to be taxed his proportionate share of the City's general indebtedness existing at the time of annexation, as approved in Section 57328 of the Government Code.

11. AGREEMENT TO NOTIFY PURCHASER OR GRANTEE. In the event Owner's land, or any lot or parcel thereof, is to be sold or conveyed, Owner agrees to notify said purchaser or grantee of the terms and conditions of this Agreement, however the binding effect of this Agreement upon said purchaser or grantee shall not be lessened by the failure of the Owner to give such notice.

12. FAILURE TO PAY. Upon the failure of Owner or Owner's successors in interest to make the payments at the time and in the manner as herein provided, or to keep or perform any of the agreements or covenants on their part to be kept or performed as herein provided, City may cease to give water service and may disconnect City water lines from said property upon giving the Owner or Owner's successor in interest 60 days' written notice of City's intention so to do, which said notice shall be by personal service or by mail to Owner or Owner's successor in interest at his or her last known mailing address.

Unpaid service charges for the property described below shall constitute a debt of the Owner or Owner's successors in interest to the City. The Owner or the Owner's successor in interest who incurred the debt shall be liable in a civil action for the amount of the unpaid service charges, for the cost of suit, and for reasonable attorney fees. The service charges shall also constitute a lien against said property for the amount of the unpaid service charges. Any lien shall be enforceable against Owner and Owner's successors in interest, and shall be subject to the same penalties and procedures under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

13. RESULT OF FAILURE TO ANNEX. It is further understood and agreed that state law provides that application must be made to the Local Agency Formation Commission ("LAFCO") before the real property herein described may be annexed to the City, and if LAFCO should not give its consent to annex, or if LAFCO places conditions or modifications upon annexation which are not acceptable to City in its sole discretion, then and in that event this Agreement shall be cancelled and terminated and City may cease to give water service after giving notice of intent to do so at the address listed in Paragraph 14 hereof, or at such other address provided to the City's City Clerk in writing and specifically citing this Agreement and this paragraph, at least twenty-four (24) months prior and may

thereafter disconnect City water lines from said property and neither Owner nor Owner's successor in interest shall be entitled to any refund of charges previously paid to City.

14. PROPERTY DESCRIPTION. The property herein referred to is described as follows:

Address: 2916 McKee Road, Merced, CA

Assessor's Parcel Number: 008-130-067

The legal description is attached hereto as Exhibit "A" and the property is shown on the map attached hereto as Exhibit "B."

15. RECORDATION OF AGREEMENT. This Agreement shall be recorded with the Merced County Recorder's Office within thirty (30) days of execution thereof. No permit shall be issued pursuant to this Agreement until this Agreement has been recorded in the official records of Merced County.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Law
Municipal Corporation

BY: _____
City Manager

ATTEST:
CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY: 16 Angel 5/23/16
City Attorney Date

OWNER:
ST. PAUL EVANGELICAL
LUTHERAN CHURCH

By: Paul Cook
Paul Cook, President

ADDRESS: 2916 McKee Road
Merced, CA 95341

TELEPHONE: 209-383-3301

FAX: 209-383-3642

E-MAIL: npccowdoc@gmail.com

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss.
County of Merced)

On 5-31-14, 2016, before me, Stephani R. Davis,
a Notary Public, Personally appeared _____
Paul Elliot Cook

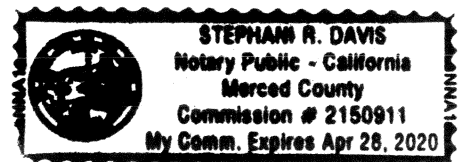
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 
Notary Public

(seal)



LEGAL DESCRIPTION

All that real property situated in the unincorporated area of the County of MERCED, State of CALIFORNIA, described as follows:

PARCEL 1, ACCORDING TO PARCEL MAP FOR D. A. MARCHINI, FILED JUNE 12, 1985, IN VOL. 53 OF PARCEL MAPS AT PAGES 32 AND 33 IN MERCED COUNTY RECORDER'S OFFICE AND BEING A DIVISION OF PARCEL 2 OF PARCEL MAP FOR PAUL STANCLIFT AND D. A. MARCHINI IN BOOK 47 OF PARCEL MAPS, PAGE 14, MERCED COUNTY RECORDS AND PORTION OF LOTS 79 AND 80 IN MAP "MAP OF BRADLEY'S ADDITION NO. 2" IN VOL. 2, PAGE 1/2, MERCED COUNTY RECORDS.

The property is also known as Assessor's Parcel Number: 008-130-067

EXHIBIT A

