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1 SECOND AMENDMENT TO JOINT POWERS AGREEMENT BETWEEN  
2 THE COUNTY OF FRESNO AND THE CITY OF FRESNO  
3

4 THIS SECOND AMENDMENT TO THE JOINT POWERS AGREEMENT is made  
5 and entered into this 25th day of November, 2003, between the  
6 COUNTY OF FRESNO, a political subdivision of the State of California, hereinafter  
7 referred to as "County", and the CITY OF FRESNO, a municipal corporation,  
8 hereinafter referred to as the "City".

9 RECITALS

10 WHEREAS, the County and City are public agencies in the State of  
11 California; and

12 WHEREAS, said public agencies have in common the legal power to  
13 construct, maintain, repair and replace sewer facilities within the unincorporated  
14 territory of the County of Fresno adjacent to or in close proximity to the City of  
15 Fresno and to provide sanitary sewer services and facilities to residences,  
16 commercial and business establishments, and industries located or to be located  
17 therein; and

18 WHEREAS, pursuant to such power in common under the joint operation of  
19 powers provision of Section 6500, et seq., of the Government Code of the State of  
20 California, the County and City entered into a Joint Powers Agreement (hereafter  
21 "JPA"), effective on February 4, 1969; and

22 WHEREAS, the parties executed an Amendment to the JPA, amending  
23 Articles IX and XI thereof, effective on June 25, 1974; and

24 WHEREAS, public health and welfare require certain uniform rules and  
25 regulations relating to quality of sewage discharged into said sewer facilities; and

26 WHEREAS, on April 5, 2001, the City submitted a revised "Fresno-Clovis  
27 Metropolitan Regional Wastewater Reclamation Facility Industrial Waste  
28 Pretreatment Program" to the California Regional Water Quality Control Board,

1 Central Valley Region ("CRWQCB-CVR"), the approval authority for the Publicly  
2 Owned Treatment Works ("POTW") that includes the Fresno-Clovis Regional  
3 Wastewater Treatment Plant ("Plant"), as granted in the Porter-Cologne Water  
4 Quality Control Act (with additions and amendments effective January 1, 2002), and  
5 in response to a requirement of the adopted Waste Discharge Requirements Order  
6 No. 5-01-254 for said Plant; and

7 WHEREAS, at the behest of the CRWQCB-CVR, the parties hereto deem it  
8 appropriate to execute this Second Amendment to the JPA to confirm the existence  
9 of adequate legal authority for the implementation and enforcement by the City of  
10 the City's Pretreatment Program against industrial users of the City's POTW whose  
11 operations are located in the unincorporated areas outside of the City's limits, by  
12 including specific reference to the relevant provisions of the Fresno Municipal Code  
13 and Fresno County Ordinance Code.

14 NOW, THEREFORE, in consideration of the foregoing recitals, the City and  
15 County mutually agree that:

16 1. The Joint Powers Agreement dated February 4, 1969, as amended, is  
17 hereby further amended by adding Article XII to read:

18 ARTICLE XII. Pretreatment Program. The County hereby acknowledges that  
19 the provisions of the Regional Wastewater Reclamation Facility Industrial Waste  
20 Pretreatment Program (hereinafter "the Pretreatment Program," set forth in Chapter  
21 9, Article 5 of the Fresno Municipal Code), as it now exists or as it may hereafter be  
22 updated, is applicable to those industrial users located outside the limits of the City  
23 whose wastewater ultimately is discharged to the City's wastewater treatment facility  
24 (hereinafter referred to as "the Subject Industrial Users"). The County further  
25 acknowledges that the City is the agency primarily responsible for the monitoring  
26 and enforcement of the pretreatment standards and other provisions of said  
27 Pretreatment Program, with respect to discharges to the City's wastewater treatment  
28 facility by the Subject Industrial Users.

1           A. Pretreatment Standards and Local Limits. The County expressly  
2 acknowledges the applicability and enforceability of the pretreatment standards,  
3 including the local limits, set forth in the City's Pretreatment Program, with respect to  
4 wastewater discharged into the City's treatment system by the Subject Industrial  
5 Users as defined herein, pursuant to the provisions of Section 14.13.030 of the  
6 County's Ordinance Code.

7           B. Identification of Industrial Users. The City will be responsible for  
8 identifying the Subject Industrial Users in the County, and for ensuring that the list of  
9 Subject Industrial Users is updated on a regular basis. Upon request by the City,  
10 the County will provide to the City, in a timely manner, such current information as is  
11 readily available to the County regarding Subject Industrial Users.

12           C. Monitoring Sewer Connections. The City shall continue, and is expressly  
13 authorized, to act as the County's agent to monitor compliance by Subject Industrial  
14 Users with applicable pretreatment standards. The City and its employees and  
15 agents are hereby expressly authorized to enter upon and inspect lands and  
16 premises for monitoring activities relating to the use by the Subject Industrial Users  
17 of the respective sewer systems of the signatory agencies hereto. The City,  
18 through its employees and agents shall make such inspections of the said sewer  
19 systems, connections thereto, and discharges therein, as are necessary and  
20 appropriate for the monitoring and enforcement of the Pretreatment Program as it  
21 applies to the Subject Industrial Users. The parties hereto agree to cooperate with  
22 each other and to share and disclose fully such information as is available, to assist  
23 the City in performing its responsibilities to monitor and enforce compliance by the  
24 Subject Industrial Users with the pretreatment standards.

25           D. Monitoring and Sampling Subject Industrial Users. It is the responsibility  
26 of the City to monitor Subject Industrial Users, through facility inspections and  
27 sampling of wastewater discharges, to verify compliance with the Pretreatment  
28 Program. The Control Mechanism for regulating compliance will be the Wastewater

1 Discharge Permit, issued by the City in accordance with its approved Pretreatment  
2 Program, pursuant to Section 9-513 of the Fresno Municipal Code. The County  
3 hereby expressly authorizes and designates the City as its agent to enter onto the  
4 premises of a Subject Industrial User to conduct inspections and/or collect samples,  
5 as necessary or appropriate for the City's performance of its monitoring  
6 responsibilities hereunder.

7 E. Enforcement. The City agrees to be the primary responsible agent for  
8 identifying violations of the pretreatment standards by Subject Industrial Users. In  
9 addressing violations, the City shall follow the procedures of its Enforcement  
10 Response Plan. If any Subject Industrial User violates any provision of  
11 Pretreatment Program (including but not limited to the Enforcement Response Plan  
12 set forth in Fresno Municipal Code Section 9-510), the City shall have the right to  
13 take any legal action provided for in Section 9-510 of the Fresno Municipal Code to  
14 ensure compliance and/or enforce any such provision(s). The City is fully  
15 authorized, under the provisions of this Agreement, to act on the County's behalf in  
16 this regard.

17 2. Except as amended herein above, all other provisions of the JPA, as  
18 previously amended, shall remain in full force and effect.

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1 IN WITNESS WHEREOF, the parties hereto have by these presents caused  
2 this Second Amendment to the Joint Powers Agreement, to be duly executed as of  
3 the day and year first hereinabove written.

4  
5 COUNTY OF FRESNO

ATTEST:

BERNICE E. SEIDEL, Clerk

Board of Supervisors

6  
7  
8 BY



CHAIRMAN, Board of Supervisors

By: 

9  
10 APPROVED AS TO LEGAL FORM

11 PHILLIP S. CRONIN, COUNTY COUNSEL

12 BY: 

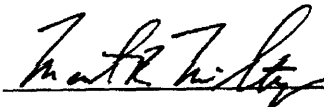
13  
14 CITY OF FRESNO

ATTEST:

BECKY KLISCH, Clerk

City of Fresno

15  
16  
17 BY



Public Utilities Director

By: 

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19  
20 APPROVED AS TO LEGAL FORM:

21 HILDA CANTÚ MONTOY, City Attorney

22 City of Fresno

23  
24 BY: 

Michael P. Slater, Deputy