COMMENT: In 1994, the City of Porterville (City) expanded its Publicly Operated Treatment Works (POTW) and, as part of this expansion, was required to have a formal Industrial Pretreatment Program (IPP). The requirements of this program are defined in the Code of Federal Regulations, Title 40, part 413. The IPP is required to prevent the introduction of pollutants into the City's POTW which will interfere with the operation of the POTW, or pass through the POTW, and contaminate the resulting biosolids (sludge) and/or treated wastewater. It is also designed to improve the opportunity to recycle and reclaim the wastewater and biosolids generated. The IPP requirements are administered by the Regional Water Quality Control Board (RWQCB).

On July 1, 1995, the City and Porter Vista Public Utility District (PVPUD), signed an Agreement for Wastewater Services whereby the City would treat and dispose of PVPUD wastewater. RWQCB's legal counsel reviewed the City's Wastewater Ordinance and the 1995 agreement in 2001. He determined that an amendment to the agreement was required to clearly define the respective rights and obligations of the City and PVPUD. Amendment #1 to the agreement has been prepared and is part of the IPP. In February 2003, the RWQCB determined that it would be clearer, easier, and more cost effective for PVPUD to adopt the City's sewer use ordinance by reference thereby eliminating the need to update its sewer use ordinance periodically.

After many revisions and updates, the RWQCB has accepted the City's IPP as complete, and is moving to the next step in the approval process which is to have a thirty (30) day public comment period. After the thirty (30) day public comment period, if no public hearing is requested, an item will be placed on the RWQCB's next general meeting agenda to adopt the IPP. After adoption by the RWQCB, the City will have sixty (60) days to adopt the proposed changes to its Sewer Use Ordinance and 180 days to permit all "Significant Industrial Users." PVPUD will have 180 days to amend its sewer use ordinance to be at least as stringent, and as broad in scope, as the City’s Sewer Use Ordinance (or adopt by reference the City’s Ordinance).

RECOMMENDATION: That The City Council act to recommend that the PVPUD Board of Directors adopt the City of Porterville’s Sewer Use Ordinance by reference by passing the attached Ordinance.

ATTACHMENT: Amendment #1

Ordinance
This Amendment is made and entered into as of the ___ day of ______________, 2003, by and between the City of Porterville, a charter law city existing by virtue of the laws and Constitution of the State of California, hereinafter called “CITY”, and Porter Vista Public Utility District, a political subdivision of the State of California and Public Utility District existing by virtue of and pursuant to Division 7 of the California Public Utilities Code, Section 15501 et. Seq., hereinafter called “DISTRICT”:

WHEREAS, CITY and DISTRICT entered into an Agreement on July 1st, 1995, the purpose of which is to provide for the joint use of the Porterville Wastewater Treatment Facility (SYSTEM); to provide for the designation of Porterville as the entity responsible for day to day management, operation and maintenance of the SYSTEM; and to regulate the discharge of sewage into and from said SYSTEM i.e. through a Wastewater Pretreatment Program.

WHEREAS, the purpose of this Amendment is to define with particularity the respective rights and obligations of CITY and DISTRICT under the Wastewater Pretreatment Program.
Article 1. Definitions

The following definitions shall add to or replace definitions contained in DISTRICT’s Wastewater Ordinance Article 1.

Discharger: Shall be synonymous with USER.

Indirect Discharge: Shall be synonymous with DISCHARGE. The introduction of pollutants into a Publicly Owned Treatment Works (POTW) from any non-domestic source regulated under section 307(b), (c) or (d) of the Clean Water Act.

Industrial User: A source of indirect discharge which constitutes a discharge of pollutants under the regulations issued pursuant to the Clean Water Act.

User: Any person who contributes, causes or permits the contribution of wastewater into the CITY’s POTW.

Article 2. Sewer Use Ordinance

DISTRICT will make amendments to its Wastewater Ordinance to ensure its Ordinance is no less stringent and is as broad in scope as the sewer use ordinance in the Porterville Municipal Code, Article IV and Article V. DISTRICT will forward to CITY for review a draft of its revised Wastewater Ordinance within 180 days of the date of this agreement. DISTRICT will adopt its revised Wastewater Ordinance within 90 days of receiving approval from CITY of its content.

CITY agrees to keep DISTRICT notified of all ordinance changes at the earliest possible date, but no later than when CITY gives public notice of Ordinance Hearing.

Whenever CITY revises its sewer use ordinance it will forward a copy of the revisions to DISTRICT. DISTRICT will adopt revisions to its Wastewater Ordinance that are at least as stringent as those adopted by CITY. DISTRICT will forward to CITY for review its proposed revisions within 90 days of receipt of
the DISTRICT’s revisions. DISTRICT will adopt its revisions within 90 days of receiving approval from CITY of the content thereof.

Article 3. Local Limits

DISTRICT will adopt pollutant specific local limits which address at least the same pollutant parameters and are at least as stringent as the local limits enacted by CITY within 90 days of the date of this agreement. If CITY makes any revisions or additions to its local limits, CITY will forward to DISTRICT a copy of such revisions or additions within 30 days of enactment thereof. DISTRICT will adopt any such revisions or additions within 90 days thereof.

Article 4. Enforcement

DISTRICT designates CITY as the agent of DISTRICT for the purposes of implementation and enforcement of DISTRICT’s Wastewater Ordinance against industrial users located in DISTRICT. CITY may take any action under DISTRICT’s Wastewater Ordinance that could have been taken by DISTRICT, including the enforcement of the ordinance in courts of law.

CITY has the primary responsibility to identify Industrial User violations in DISTRICT. CITY will inform DISTRICT when an Industrial User violation has been identified. CITY will make every effort to notify DISTRICT prior to notifying an Industrial User violator but no later than concurrently with Industrial User notification. CITY’s Wastewater Management staff has the discretion to identify a violation, evaluate its significance, and notify the Industrial User on noncompliance, requesting corrective action.

Article 5. Control Mechanism
CITY, on behalf of and as agent for DISTRICT, will perform technical and administrative duties necessary to implement and enforce DISTRICT’s Wastewater Ordinance. CITY Will:

(1) be responsible for insuring that the list of Industrial Users is updated on a regular basis. In this regard, DISTRICT will cooperate with CITY, and provide current information in a timely manner to CITY regarding the Industrial Users in DISTRICT;

(2) issue permits to all industrial users required to obtain a permit;

(3) conduct inspections, sampling, and analysis. Although CITY has the right to independently enter the Industrial Users in DISTRICT to verify compliance through sampling and inspections, CITY shall take all reasonable steps to notify DISTRICT in advance of said inspections;

(4) take all appropriate enforcement action as outlined in DISTRICT’s Wastewater Ordinance;

(5) perform any other technical or administrative duties the parties deem appropriate.

In addition, CITY may, as agent of DISTRICT take emergency action to stop or prevent any discharge which presents or may present an imminent danger to the health or welfare of humans, which reasonably appears to threaten the environment, or which threatens to cause interference, pass through, or sludge contamination of the SYSTEM.

CITY will be responsible for all costs incurred by it in implementing and enforcing DISTRICT’s Wastewater Ordinance.

Article 6. Access to Records
DISTRICT will, upon request, make available all records on industrial users compiled as part of DISTRICT’s Wastewater Ordinance.

Article 7. Fines

CITY and DISTRICT agree to work together to arrive at a mutual fine schedule which will be implemented to ensure compliance with the Wastewater Pretreatment Program. The fine schedule is subject to approval by the California Regional Water Quality Control Board.

Article 8. Judicial Action

If any term of this agreement is held to be invalid in any judicial action, the remaining terms will be unaffected.

CITY may terminate this agreement by providing 60 days written notice to the DISTRICT. All benefits and obligations under this agreement will cease following 60 days from receipt of such notice.

If the authority of CITY to act as agent for DISTRICT under this agreement is questioned by an industrial user, court of law, or otherwise, DISTRICT will take whatever action is necessary to ensure the implementation and enforcement of its Wastewater Ordinance against its industrial users, including, but not limited to, implementing and enforcing its Wastewater Ordinance on its own behalf and/or amending this agreement to clarify the Control Authority’s authority.

CITY OF PORTERVILLE Porter Vista Public Utility District
By: ___________________________    By: ___________________________
    Richard Stadtherr, Mayor    President

By: ___________________________    By: ___________________________
    John Longley, City Clerk    Secretary

APPROVED AS TO FORM:

By: ___________________________    By: ___________________________
    Julia Lew, CITY Attorney    DISTRICT Counsel

Reviewed and revised by City of Porterville Community Development and Services 4/2002

4/23/2002
ORDINANCE NO. ________

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE PORTER VISTA PUBLIC UTILITY DISTRICT
REGULATING REQUIREMENTS FOR CONTRIBUTION
TO THE CITY OF PORTERVILLE WASTEWATER COLLECTION
AND WASTEWATER TREATMENT FACILITIES

The Board of Directors of the Porter Vista Public Utility District ordains as follows:

SECTION 1. This ordinance adopts the ordinance of the City of Porterville which regulates the requirements for contributions to the City of Porterville wastewater collection and wastewater treatment facilities as set forth at Chapter 25, Article IV et Seq., Requirements and surcharges for Sewage Discharges into the City Sanitary Sewer System, of the Porterville Municipal Code as it may be amended from time to time, and shall apply to those users located in the Porter Vista Public Utility District in accordance with the City of Porterville and Porter Vista Public Utility District Agreement for Wastewater Services dated July 1, 1995.

SECTION 2. This ordinance shall take effect and be in full force and effect 30 days after passage. The clerk shall cause this ordinance to be published as required by law.

DULY PASSED AND ADOPTED this ____ day of ____________, 2003, by the Board of Directors of the Porter Vista Public Utility District by the following vote:

AYES: 
NOES: 
ABSENT: 
ABSTAIN: 

__________________________
Porter Vista Public Utility District

ATTEST: