

**FIRST AMENDMENT TO JOINT POWERS AGREEMENT  
OF THE EL DORADO WATER AND POWER AUTHORITY**

This First Amendment to the Joint Powers Agreement of the El Dorado Water and Power Authority ("Agreement") is made among the County of El Dorado ("COUNTY"), the El Dorado County Water Agency ("WATER AGENCY"), the El Dorado Irrigation District ("EID"), and the Georgetown Divide Public Utility District ("GDPUD"), collectively, the "Parties", (the "First Amendment"), with reference to the following facts:

A. By and upon execution of the Agreement, effective March 2, 2004, the Parties formed the El Dorado Water and Power Authority ("EDWPA") for the purposes stated in the Agreement, but primarily limited to coordination of their respective interests in proceedings associated with efforts of Sacramento Municipal Utility District ("SMUD") to obtain a new Federal Energy Regulatory Commission ("FERC") license for the Upper American River Project ("UARP").

B. While the alternate licensing proceeding for the UARP has ended and SMUD has filed its application for a new license with the FERC, there remain ongoing negotiations between the Parties and SMUD relating to the formulation, implementation, and enforcement of protection, mitigation and enhancement measures ("PM&Es") associated with the UARP, as well as a prospective need for other, future actions and projects, with a corresponding need to both broaden the purposes for which EDWPA was formed and to provide for its continuing authority to perform those purposes.

C. It is contemplated by the Parties that more time may be required to accomplish the purposes than was originally allowed by the Agreement, and that operational continuity should be broadened to permit the accomplishment of the purposes and interests represented by the Agreement.

D. Each of the Parties agrees that it is in their mutual best interests to amend and modify the Agreement as provided in this First Amendment.

Now, Therefore, in consideration of the foregoing facts, each of the Parties agrees that the Agreement shall be amended by this First Amendment only as follows:

1. Paragraph D of RECITALS of the Agreement is amended to provide as follows:

"D. COUNTY, EID, WATER AGENCY, and GDPUD have each determined it is in their best interests to form and participate in a joint powers agency in relation to water supply, socioeconomic, and power issues that (i) arise during or as part of the SMUD UARP proceedings, (ii) arise thereafter during the operation by SMUD of the UARP pursuant to any subsequently issued FERC license, and (iii) promote the general welfare of the participants, their constituents, and the citizens of El Dorado County, including identifying, providing for, negotiating, allocating and enforcing

PM&Es and performing other, future actions and projects associated with the benefits and burdens of the SMUD UARP in El Dorado County's west slope watershed."

2. Subparagraph c. of Section 1. of ARTICLE I: DEFINITIONS, of the Agreement is amended to provide as follows:

"c. 'Party' or 'member' shall mean the COUNTY, WATER AGENCY, EID or GDPUD, or such of each of them which are current members of the Authority."

3. There is added new Section 2. (previously appearing as Section 1 in Article VII) to ARTICLE II: CREATION OF THE AUTHORITY of the Agreement, providing an increased term as follows:

"Section 2. The term of this Agreement shall be indefinite unless and until terminated as provided in this Agreement."

4. The first and second sentences of Section 1. of ARTICLE III: PURPOSES of the Agreement are deleted and substituted with the following:

"This Agreement is made to provide for the joint exercise of powers common to the Parties as conferred by the laws of the State of California, regarding water supply, socioeconomic, and power issues that (i) arise during or as part of the SMUD UARP proceedings, (ii) arise thereafter during the operation by SMUD of the UARP pursuant to any subsequently issued FERC license, and (iii) promote the general welfare of the participants, their constituents, and the citizens of El Dorado County, including identifying, providing for, negotiating, allocating and enforcing PM&Es and performing other, future action and projects associated with the benefits and burdens of the SMUD UARP in El Dorado County's west slope watershed."

5. Section 1 of ARTICLE IV: POWERS OF AUTHORITY is amended to add new subsection i. as follows:

"i. To file and prosecute applications or petitions with state and federal regulatory agencies, including FERC and the State Water Resources Control Board, necessary to implement the Parties' rights in the UARP."

6. There is added the following new section to ARTICLE V: BOARD OF DIRECTORS AND EXECUTIVE DIRECTOR of the Agreement:

a. "Section 3A. Withdrawal of a Party. Upon the withdrawal by the COUNTY, EID or GDPUD from the Authority and a vote by the remaining Parties to continue the Authority as provided by Article VII, the following provisions shall apply and supersede other similar provisions of this Article V while the only members of the Authority are the WATER AGENCY and any two of COUNTY, EID, or GDPUD:

(i) Directors of the WATER AGENCY board that are members of a withdrawing Party shall not sit on the Board of Directors of the Authority following such withdrawal.

(ii) Except when this Agreement or applicable law imposes a higher standard, any action of the Board of Directors shall require the affirmative vote of six directors.

(iii) In the case of a tie vote when the total number of directors is an even number and all authorized directors are present, the non-voting director provided by Section 3, above, shall have the power to cast a tie-breaking vote, only.

(iv) There shall not be a super majority requirement or right to call for a 4/5ths vote.”

7. Subparagraphs (i) and (ii) of Section 4. of ARTICLE V: BOARD OF DIRECTORS AND EXECUTIVE DIRECTOR of the Agreement are amended to provide as follows:

“(i) Except when this Agreement or applicable law imposes a higher standard, any action, including without limitation actions to implement the Authority’s powers under Article IV, of the Board of Directors shall require the affirmative vote of eight directors.

(ii) Right to Call for 4/5ths Vote. Any Party has the right to call for a 4/5ths majority vote on any item, as follows: Prior to the time that the Chair calls for the vote on an item, any director may call for the item to be approved by a 4/5ths majority vote of all voting members present, in which event the Chair will then call for the vote, which will require 4/5ths (rounded up) affirmative votes of all voting members present for passage.”

8. ARTICLE VII: WITHDRAWAL AND TERMINATION of the Agreement is amended in its entirety to provide as follows:

“ARTICLE VII: WITHDRAWAL AND DISSOLUTION AND WINDING UP

Section 1. Withdrawal. Any Party may withdraw from this Agreement, subject to written notice submitted to each other member of the Board at least one month prior to the effective date of the withdrawal. The withdrawing Party’s interest in the Authority shall be treated in the same way as on termination, by return of unexpended Contributions, or payment of additional Contributions, as necessary. In the event a Party withdraws from this Agreement or otherwise ceases to be a member, the remaining members shall, by majority vote at the next meeting of the Authority, decide either to (i) continue the operation and conduct of the affairs and purposes of the Authority, in which event it shall continue, or (ii) wind up and dissolve its affairs.

Section 2. Dissolution and winding up. In the event the Authority is terminated the Board of Directors is authorized to continue to act to complete the dissolution and winding up of the affairs of the Authority by provision for and payment of all of its obligations and the disposition of all of its funds and property. Obligations include funds advanced for operations of the Authority. Funds and property in excess of obligations shall be returned to each Party in proportionate share to that Party's actual Contribution. In the event Contributions have not been set and a Party has advanced funds for the operation of the Authority for which there are not sufficient funds to make full reimbursement to that Party, all Parties shall make an equal Contribution to fund full reimbursement to the advancing Party and to enable the dissolution and winding up of the affairs of the Authority to be completed. All decisions of the Board of Directors of the Authority with regard to allocation of remaining funds and property, or establishing Contributions, upon dissolution and winding up shall be final."

9. The heading of ARTICLE IX: AMENDMENT OR ASSIGNMENT OF AGREEMENT and Section 1. of Article IX, only, are amended to provide as follows:

"ARTICLE IX: AMENDMENT, TERMINATION AND ASSIGNMENT.

Section 1. This Agreement may be amended or terminated only by an affirmative vote of the governing boards of each Party."

10. Except as amended by this First Amendment, the Agreement is and remains in full force and effect, and the Agreement and this First Amendment shall inure to the benefit of and bind the Parties and each of their permitted successors and assigns.

11. This Agreement may be executed simultaneously or serially in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument, consisting of five pages including signature pages.

In Witness Whereof, the Parties having been previously authorized by action of each of their respective boards of directors to execute this amendment, have caused this First Amendment to be executed and attested by their duly authorized representatives. The effective date of this First Amendment shall be the date of the last to sign as indicated below.

Dated: \_\_\_\_\_

COUNTY OF EL DORADO

Attest: \_\_\_\_\_  
Board of Supervisors

\_\_\_\_\_  
Charlie Paine, Chairman  
"COUNTY"

First Amendment to be executed and attested by their duly authorized representatives.  
The effective date of this First Amendment shall be the date of the last to sign as  
indicated below.

Dated: 10-18-05

COUNTY OF EL DORADO

Attest: CINDY KECK, Clerk  
Of the Board of Supervisors

By [Signature]  
Deputy Clerk

[Signature]  
James R. Sweeney  
Second Vice-Chairman  
"COUNTY"

Dated: \_\_\_\_\_

EL DORADO COUNTY WATER  
AGENCY

Attest: \_\_\_\_\_  
Board of Directors

\_\_\_\_\_  
JoAnn Shepherd, Chairman  
"AGENCY"

Dated: \_\_\_\_\_

EL DORADO IRRIGATION DISTRICT

Attest: \_\_\_\_\_  
Board of Directors

\_\_\_\_\_  
John Fraser, Chairman  
"EID"

Dated: \_\_\_\_\_

GEORGETOWN DIVIDE PUBLIC  
UTILITY DISTRICT

Attest: \_\_\_\_\_  
Board of Directors

\_\_\_\_\_  
Bob Diekon, Chairman  
"GDPUD"

Dated: October 17, 2005

EL DORADO COUNTY WATER  
AGENCY

Attest: *Carly A. M...*  
Board of Directors

*Jo Ann Shepherd*  
JoAnn Shepherd, Chairman  
"AGENCY"

Dated: \_\_\_\_\_

EL DORADO IRRIGATION DISTRICT

Attest: \_\_\_\_\_  
Board of Directors

\_\_\_\_\_  
John Fraser, Chairman  
"EID"

Dated: \_\_\_\_\_

GEORGETOWN DIVIDE PUBLIC  
UTILITY DISTRICT

Attest: \_\_\_\_\_  
Board of Directors

\_\_\_\_\_  
Bob Diekon, Chairman  
"GDPUD"

Dated: \_\_\_\_\_


EL DORADO COUNTY WATER  
AGENCY

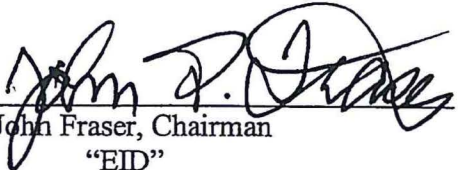
Attest: \_\_\_\_\_  
Board of Directors

\_\_\_\_\_  
JoAnn Shepherd, Chairman  
"AGENCY"

Dated: \_\_\_\_\_

EL DORADO IRRIGATION DISTRICT

Attest:  \_\_\_\_\_  
Board of Directors  
STACY AUGUST  
CLERK TO THE BOARD

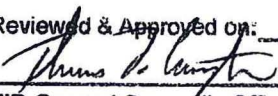
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John Fraser, Chairman  
"EID"

Dated: \_\_\_\_\_

GEORGETOWN DIVIDE PUBLIC  
UTILITY DISTRICT

Attest: \_\_\_\_\_  
Board of Directors

\_\_\_\_\_  
Bob Diekon, Chairman  
"GDPUD"

Reviewed & Approved on: 10/25/05  
 \_\_\_\_\_  
EID General Counsel's Office  
as to form

Dated: \_\_\_\_\_

EL DORADO COUNTY WATER  
AGENCY

Attest: \_\_\_\_\_  
Board of Directors

\_\_\_\_\_  
JoAnn Shepherd, Chairman  
"AGENCY"

Dated: \_\_\_\_\_

EL DORADO IRRIGATION DISTRICT


Attest: \_\_\_\_\_  
Board of Directors

\_\_\_\_\_  
John Fraser, Chairman  
"EID"

Dated: 11/1/05

GEORGETOWN DIVIDE PUBLIC  
UTILITY DISTRICT

Attest:   
Board of Directors

  
Bob Diekon, Chairman  
"GDPUD"