

AMENDED
JOINT POWERS AGREEMENT
UTICA POWER AUTHORITY

THIS AMENDED AGREEMENT made and entered into this 18th day of May, 2005, pursuant to the Joint Exercise of Powers Act, by and between CITY OF ANGELS (ANGELS) and UNION PUBLIC UTILITY DISTRICT (UPUD), amends the Joint Powers Agreement for the UTICA POWER AUTHORITY dated December 20, 1995, as amended by the amendment of July 8, 1996, and as clarified by UPA Resolution No. 99-9.

These public entities are hereinafter collectively referred to as the "Parties" or "Member Entities." The terms "Parties" and "Member Entities" shall also include any additional parties that join in this Agreement, but shall exclude any parties that withdraw or have withdrawn from this Agreement pursuant to any of the provisions hereto.

R E C I T A L S

This Agreement is made with reference to the following facts:

1. All of the Parties to this Agreement are public agencies.
2. ANGELS is an incorporated city/
3. UPUD is a public utility district established pursuant to the California Public Utility District Act of the Public Utilities Code, Section 15501 et seq.
4. Each of the Member Entities distributes water to customers within their respective boundaries.
5. Members of the UPA created the UTICA POWER AUTHORITY (UPA) to obtain the FERC hydroelectric project licenses for the Angels Project No. 2699 and the Utica Project No. 2019 in order to help assure that there will be adequate water available from the Projects for the protection of all

beneficial public uses in Calaveras County, including for power production, domestic water supply, agricultural and irrigation water supply, recreation, aesthetics and fish and wildlife purposes.

6. The parties hereto believe it will be mutually beneficial to them to cooperate in their efforts as members of the UPA.

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. As used in this Agreement, unless the content requires otherwise, the meaning of the terms hereinafter set forth shall be as follows:

a. "Authority" - Shall mean the Utica Power Authority, being the separate entity created by this Agreement.

b. "Board of Directors" or "Board" - Shall mean the governing body of the Authority as established in Section 3.1 of this Agreement.

c. "Law" or "The Law" - Shall mean the Joint Exercise of Powers Act, being Articles 1 and 2 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (Sections 6500 et seq.).

d. "Project" - Shall mean the Angels and Utica Hydroelectric Projects described in Article V of this Agreement.

e. "Bonds" - Shall mean any bonds, notes or other evidence of indebtedness of the Authority, authorized and issued pursuant to the Law.

ARTICLE II

CREATION OF THE UTICA POWER AUTHORITY

Section 2.1. Creation. The public entity created pursuant to the Law by the Agreement of December 20, 1995 is known as the "Utica Power Authority".

Section 2.2 Term. This Amended Agreement shall be effective from the date of the Withdrawal Agreement and Release between Calaveras County Water District, UPUD, and Angels dated June 20, 2004, and remain in effect until terminated by mutual agreement of all parties. Notwithstanding the foregoing, this Agreement shall remain in effect until such time as all bonds or other debt of the Authority and the interest thereon shall have been paid in full or provision for such payment shall have been made.

Section 2.3. Purpose. The purpose of this Agreement is to provide for the joint exercise through the Authority of powers common to each of the parties to study and participate in the financing, acquisition, operation, maintenance and replacement of facilities of the project, to enter into agreements to sell the electric output of the Project, and agreements for the sale of water for the generation of power at the Collierville power plant being FERC Project No. 2409, and to do all acts related and incidental thereto.

Section 2.4. Powers. The Authority shall have the power to study and participate in the financing, acquisition, and operation of the project, to acquire, construct, operate, maintain and replace other facilities for the generation and transmission of electric energy and for the distribution of water, to enter into agreements to wheel and exchange electric energy, and to do all acts related and incidental thereto in order to provide electric energy and water needed by the parties and their respective customers. The Authority is authorized in its own name to do all acts necessary for the exercise of these powers for these purposes, including, but not limited to any or all of the following: to make and enter

into contracts; to accept the assignment of and to be bound by the provisions of contracts concerning the sale and operation of the Projects previously entered into between CCWD and the Pacific Gas & Electric Company, and between CCWD and NCPA; to employ agents and employees; to acquire, construct, manage, maintain, operate and replace any buildings, works or improvements; to acquire by eminent domain or otherwise and to hold or dispose of any property; to sue and be sued in its own name; to incur debts, liabilities and obligations; and to issue Bonds or other debt to the extent and on the terms provided by law. The Authority shall have the power to apply for, accept and receive all State and Federal licenses, permits, grants, loans or other aids from any agency of the United States of America or the State of California.

ARTICLE III

INTERNAL ORGANIZATION

Section 3.1 Governing Body.

a. The business of the Authority shall be conducted by a five member Board of Directors, consisting of two (2) directors appointed by UPUD, and two (2) directors appointed by ANGELS, and a fifth "at large" director who shall be appointed by majority vote of the UPUD and ANGELS members of the UPA to serve a two (2) year term, and who can be reappointed to serve successive terms. The selection process shall be determined by the Board. Said fifth at large director will have all the duties and responsibilities of an elected director except he or she cannot hold an officer position. Said fifth at large director shall be subject to recall and replacement at any time upon the vote of the UPUD and ANGELS members of the UPA as set forth in Section 3.3.b.

The two UPUD and two ANGELS Directors and the alternates for those directors shall from time to time be selected from and designated in writing by the governing body of each of the parties. The governing body of each party shall designate an alternate for each director who shall serve in the absence of their Directors. The role of the alternate director shall be

to assume the duties of the director appointed by his/her member entity in case of the absence or unavailability of such Directors. The Directors and the alternates so named shall serve at the pleasure of their respective appointing governing

body and shall continue to serve until the respective successors are appointed.

Section 3.2 Officers

a. A Chairperson, Vice-Chairperson and a Secretary shall be selected from the four directors from ANGELS and UPUD to serve for two year terms. The five UPA directors shall select such officers by majority vote. Officers may serve consecutive terms.

b. An office shall be declared vacant if the person serving dies, resigns, or is removed by his/her member entity as its representative on the Authority, or if his/her member entity withdraws from this Agreement pursuant to any of the provisions hereof.

c. The Board may also appoint or employ such other officers and employees as it deems necessary to carry out the purposes of this Agreement.

Section 3.3. Meetings.

a. The Board shall hold at least one regular meeting each year and by resolution may provide for the holding of regular meetings at more frequent intervals. The date upon which the hour and place at which each such regular meeting shall be held shall be fixed by resolution of the Board. Special meetings of the Board may be called in accordance with the provisions of Section 54956 of the California Government Code. All meetings of the Board shall be called, held, noticed and conducted subject to the provision of the Ralph M. Brown Act (Sections 54950 et seq., Government Code). Compensation and reimbursable expenses of the Board members shall be set from time to time by resolution of the Board.

b. A quorum of the Board for the transaction of business shall consist of a majority of directors, except that less than a quorum may adjourn from time to time. The concurring vote of three directors of the Board shall be required for any action of the Board of Directors, except that action to recall and replace the fifth at large director before expiration of his or her appointed term shall require a concurring vote of four directors from UPUD and ANGELS.

c. The selected Chairperson shall be the presiding officer at all Board meetings. In the event of the Chairperson's absence, the selected Vice Chairperson shall preside. The Secretary shall be responsible for keeping the Minutes of all meetings of the Board and all other official records of the Authority.

Section 3.5. Principal Office. The principal office of the Authority shall be the UPA Office Building, 1168 Booster Way, P.O. Box 358, Angels Camp, California 95222. The Board of Directors may change the principal office from one location to another.

ARTICLE IV

FINANCIAL PROVISIONS

Section 4.1. Fiscal Year. The fiscal year of the Authority is July 1-June 30.

Section 4.2. Depository: Auditor.

a. The Board of Directors shall select the officers of a member entity or some other person as the law may provide to carry out the responsibilities of Treasurer/Depository and Auditor/Controller in accordance with Government Code section 6505.5.

b. All funds of the Authority shall be strictly and separately accounted for and regular reports shall be rendered of all receipts and disbursements at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection by the member entities and by

bondholders as and to the extent provided by resolution or indenture. The Auditor/Controller shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority which shall be conducted, at a minimum, in accordance with the requirements of the State Controller under Section 26909 of the California Government Code and shall conform to generally accepted auditing standards.

Section 4.3. Property Bonds. The Board of Directors shall from time to time designate the officers and persons, in addition to those specified in Section 4.2 above, who shall have charge of, handle or have access to any property of the Authority. Each such officer and person, including those specified in Section 4.2, shall file a bond in an amount designated by the Board of Directors. Such designations shall be subject to ratification by the parties in compliance with Government Code section 6505.1.

Section 4.4. Budget. At least 30 days prior to commencement of each fiscal year, the Board of Directors shall adopt a budget for the Authority for the ensuing fiscal year.

Section 4.5. Contributions for Authority Operating Expenses.

a. If additional funds are needed in the future to cover expenses, each of the Member Entities shall equally pay such expenses upon request from the Board of Directors as the expenses are incurred. The Authority shall send each Member Entity a statement for its share of the operating expenses which is to be paid by the Member Entity. Any Member Entity which does not transmit its contributions within 30 days after receipt of a statement from the Authority shall be sent a follow-up notice demanding its payment within 10 days from its receipt of the notice. If the Member Entity does not make adequate arrangements with the Authority to make such payment, that Member Entity shall be deemed to have withdrawn as a Member Entity and cease to be a party to this agreement. The refunds or repayment of contribution shall be made in accordance with the terms and conditions upon which the contribution was made.

b. In accordance with Government Code section 6512.1, repayment or return to the parties of all or any part of any contributions made by the parties and any revenues received by the Authority may be directed by the Board at such time and upon such terms as the Board may decide. The Authority shall hold title to all funds, property and works acquired by it during the term of this Agreement.

Section 4.6. Sharing of Project Capital Costs, Operating Costs and Liabilities, and Net Revenues.

a. ANGELS and UPUD shall each be financially obligated for one-half ($\frac{1}{2}$) of CCWD's portion of the purchase price obligation under the CCWD/PG&E Agreement for the Angels and Utica Hydroelectric Projects. ANGELS and UPUD shall each be responsible for paying one-half ($\frac{1}{2}$) of all costs and liabilities, including annual operation, maintenance and replacement costs of the Project, and all costs of maintaining the Projects in compliance with requirements of the FERC or other regulatory authority.

b. ANGELS and UPUD shall share on an annual basis in proportion to each of their one-half ($\frac{1}{2}$) Project participations, the net revenues from the sale of the Project's electric energy, and the net revenues from the sale of Project water sold to generate electrical energy at the Collierville power plant, available after payment of all required annual payments of capital costs and all other operation, maintenance and replacement costs of the Project, and after full repayment of any loans or advances of funds made by any Member Entity to another Member Entity.

c. In the event of the withdrawal of a Member Entity as set forth in Sections 4.5 or 6.4, such withdrawing Member Entity shall remain obligated and liable to the Authority for its one-half share of capital costs and any accumulated operating deficits and liabilities incurred by the Authority up until the effective date of the withdrawal. The withdrawing party shall not be entitled to any Project revenues received by the Authority after its withdrawal, except that the withdrawing party will be entitled to payment

of its contributions made under Section 4.5, without interest, out of the first twenty-five percent (25%) of net revenues each year, and after payment of any loans or advances it has received from other Member Entities.

d. The withdrawal of any Member Entity does not terminate this Agreement, and in the event of withdrawal of any Member entity as set forth in Sections 4.5 or 6.4, and subject to the obligations set forth in subsection "c", the remaining Member entities shall assume and be equally, jointly and severally liable for the withdrawing Member's Project liabilities to third parties.

ARTICLE V

THE PROJECT

Section 5.1. Description of Project. The Project which the Authority intends to participate in is the operation of the Angels and Utica Projects.

Section 5.2. Refinement of Project; Amendment of Agreement; Withdrawal of Parties.

a. It is understood and agreed that the aforementioned description of the Project represents the present intention and agreement of the parties and that any material changes in the Project will be provided and set forth as necessary. Should a change in Project description occur, it is agreed that this Agreement may be amended at such time as the details of any change in the Project and its financing and the allocation of costs and benefits becomes sufficiently known to permit them to be described in such an amendment. No party shall be obligated to participate in the modified Project or its financing unless its governing body has approved such amendment.

b. If the Member Entities are unable to agree unanimously on the details of the modified Project, and its financing and the allocation of costs and benefits, but a

majority of Member Entities can so agree, or in the absence of a majority there exists a plurality of Member Entities agreeing upon a single proposal, then in such event each Member Entity shall have the option of either participating in such proposal or ceasing to be a party to this agreement. If a sufficient number of Member Entities agree to participate in such proposal to enable the Project and its financing to be implemented, then this Agreement shall be amended in accordance with such proposal, and the other Member Entities that do not then agree to participate shall cease to be parties hereto, and this Agreement shall be terminated as to them.

c. If there are insufficient remaining Member Entities to proceed with the Project or a modification thereof, this Agreement shall be terminated in accordance with Section 6.5 of this Agreement.

ARTICLE VI

RELATIONSHIP OF AUTHORITY AND ITS MEMBER ENTITIES

Section 6.1. Separate Entity. The Authority shall be a public entity separate from the parties to this Agreement. Unless and to the extent otherwise agreed herein, the debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the Member Entities. All property, equipment, supplies, funds and records of the Authority shall be owned by the Authority except as otherwise provided in this Agreement.

Section 6.2. Additional Parties. Additional parties may join in this Agreement and become Member Entities if accepted and approved unanimously by the then-existing parties. The terms and conditions of such new membership shall be set forth in an amendment to this Agreement signed by all of the then-existing parties and shall be consistent with any contracts, resolutions, indentures or other obligations of the Authority then in effect.

Section 6.3. Termination of a Member Entity's Participation in the Authority. Any Member Entity may

withdraw from this Agreement by giving a one-year written notice of its election to do so, which notice shall be given to the Board of Directors and to each of the other parties; provided that such withdrawal does not in any way impair any contracts, resolutions, indentures or other obligations of the Authority then in effect, and is subject to the withdrawing member's continuing payment obligations under Section 4.6 hereof.

Section 6.4. Termination and Disposition of Property Upon Termination.

a. This agreement shall be terminated at any time when the written notice of Member Entities to terminate leaves only one remaining non-terminating Member Entity, provided however that this Agreement and the Authority shall continue to exist for the purpose of disposing of all claims, distribution of all assets and all other functions necessary to wind up the affairs of the Authority.

b. Upon termination of this Agreement any surplus money on hand shall be returned to the then Member Entities of the Authority in proportion to the contributions made and in accordance with the provisions of Section 4.6. The Board of Directors shall first offer any property, works, rights and interests of the Authority for sale to the Member Entities. If no such sale is consummated, the Board of Directors shall offer the property, works, rights, and interests of the Authority for sale to any governmental agency, private entity or persons for good and adequate consideration. The net proceeds from any sale shall be distributed among the Member Entities in proportion to the contributions made.

c. If no such sale is consummated, all property, works, rights and interests of the Authority shall be allocated to the Member Entities in the same manner as the allocation of the net proceeds from a sale, unless otherwise agreed to be all of the Member Entities.

d. The foregoing subsections are subject to any approvals required by the Federal Energy Regulatory Commission.

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 7.1. Amendment of this Agreement. This Agreement may be amended by an agreement approved by all parties, subject to the exceptions set forth in Section 5.2 and subject to any conditions or restrictions established by resolution or indenture authorizing the issuance of Bonds. Approval of the Board shall not be required for the amendment of this Agreement.

Section 7.2. Assignment; Binding on Successors. Except as otherwise provided in this Agreement, the rights and duties of the parties to this Agreement may not be assigned or delegated without the advance written consent of all of the other parties, and any attempt to assign or delegate such rights or duties in contravention of this Section shall be null and void. Any approved assignment or delegation shall be consistent with the terms of any contracts, resolutions, indentures and other obligations of the Authority then in effect. This agreement shall accrue to the benefit of and be binding upon the successors and assigns of the parties hereto. This Section does not prohibit a Member Entity from entering into an independent agreement with another agency regarding the financing of that Member Entity's contributions to the Authority, or the disposition of proceeds which that Member Entity receives under this Agreement, so long as such independent agreement does not affect or purport to affect the rights and duties of the Authority or the parties under this Agreement.

Section 7.3. Notices. Any notice authorized or required to be given pursuant to this Agreement shall be in writing and shall be deemed to have been given when mailed, postage prepaid, or delivered during working hours to the following addresses or to such changed addresses as are communicated to the Authority and the Member Entities in writing:

City of Angels
584 South Main Street
P. O. Box 667
Angels Camp, CA 95222

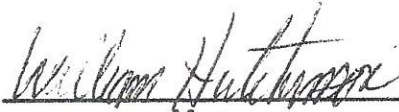
Union Public Utility District
339 Main Street
P. O. Box 429
Murphys, CA 95247

Section 7.4. Withdrawal by Operation of Law. Should the participation of any party to this Agreement be decided by the Courts or the Legislature to be illegal or in excess of that party's authority or in conflict with any law, the validity of the Agreement as to the remaining parties shall not be affected thereby and each party hereto agrees that it would have entered into this Agreement upon the same terms as provided herein if that withdrawing party had not been a participant in this Agreement.

Section 7.5. Multiple Originals. This Agreement may be executed in counterparts, each of which shall be deemed an original.

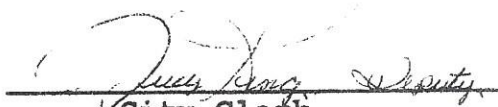
IN WITNESS WHEREOF, the parties have executed this Agreement as follows:

CITY OF ANGELS



Mayor

ATTEST:



City Clerk

DATED:

UNION PUBLIC UTILITY DISTRICT

William J. Bickel
President

ATTEST:

Robert W. Halm
Secretary

DATED:

RECEIVED
MAY 6 2005

BY:.....

**CITY OF ANGELS
CITY COUNCIL**

Resolution 2005-15

**RESOLUTION OF THE CITY OF ANGELS CITY COUNCIL APPROVING
THE AMENDED JOINT POWERS AGREEMENT
UTICA POWER AUTHORITY**

WHEREAS, the City of Angels is a member of a Joint Powers Authority together with the Union Public Utility District (UPUD);

WHEREAS, the City of Angels and the Union Public Utility District have mutually agreed to amend their Joint Powers Agreement;

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Angels approve the Amended Joint Powers Agreement for the Utica Power Authority;

PASSED AND ADOPTED this 3rd day of May, 2005 by the following vote:

AYES: Hutchinson, Middleton, Seaton, Raggio, Price

NOES: None

ABSTAIN: None

ABSENT: None


Mayor

ATTEST:



RESOLUTION 2005-04

**RESOLUTION APPROVING AMENDED JOINT POWERS AGREEMENT FOR THE
UTICA POWER AUTHORITY**

BE IT RESOLVED by the **BOARD OF DIRECTORS** of the **UNION PUBLIC UTILITY DISTRICT** that the AMENDED JOINT POWERS AGREEMENT for the UTICA POWER AUTHORITY dated May 18, 2005 for the continuous ownership and operation of the Utica Ditch, Murphys and Angels Hydroelectric Projects and related water rights by the City of Angels and Union Public Utility District is approved, and

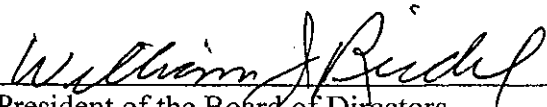
BE IT FURTHER RESOLVED that the president of the Board of Directors, William J. Riedel, and that the Secretary of the Board of Directors, LaRae D. VerHalen, be and are hereby authorized to execute the same for and on behalf of Union Public Utility District and that a certified copy of this Resolution be forwarded to and filed in the business office of Utica Power Authority.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of the **UNION PUBLIC UTILITY DISTRICT** on this 18th day of May, 2005 by the following vote:

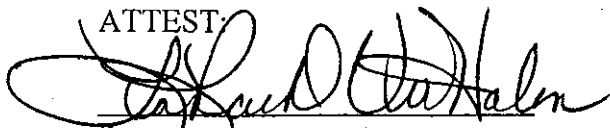
AYES: Raymond C. Behrbaum, Duane A. Oneto, LaRae D. VerHalen,
Randall M. Lagomarsino, William J. Riedel

NOES: None

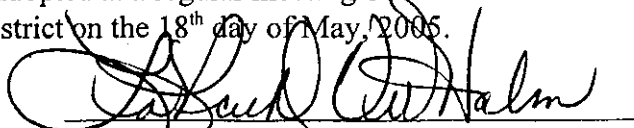
ABSENT: None


President of the Board of Directors
of the Union Public Utility District

ATTEST:


Secretary

I hereby certify that the within and foregoing is a full true and correct copy of the Resolution which was duly passed and adopted at a regular meeting of the Board of Directors of the Union Public Utility District on the 18th day of May, 2005.


Secretary



State of California
Secretary of State

FILE NO. _____

AMENDMENT TO A JOINT POWERS AGREEMENT
(Government Code Section 6503.5 or 6503.7)

Instructions:

1. Complete and mail to: Secretary of State, P.O. Box 942877, Sacramento, CA 94277-0001 (916) 653-3984
2. Include filing fee of \$1.00.
3. Do not include attachments.

(Office Use Only)

Date of filing initial notice with the Secretary of State: June 2, 2005

File number of initial notice: 1492

Name of Joint Powers agreement: Amended Joint Powers Agreement Utica Power

Authority

Mailing Address: P O Box 358, Angels Camp, CA 95222

Complete one or more boxes below. The agreement has been amended to:

☐ Change the parties to the agreement as follows: _____

☐ Change the name of the administering agency or entity as follows: _____

☐ Change the purpose of the agreement or the powers to be exercised as follows: _____

☐ Change the short title of the agreement as follows: _____

☒ Make other changes to the agreement as follows: Numerous amendments to reflect the withdrawal of one of the Joint Powers Agreement members, and other updates to the provisions.

June 2, 2005
Date

Sally K. Byrd
Signature

Sally K. Byrd, Secretary
Typed Name and Title