

CITY COUNCIL MEETING

APRIL 21, 1981

ORDINANCE  
AUTHORIZING  
NCPA TO  
ISSUE REVENUE  
NOTES  
INTRODUCED

ORD. NO. 1221  
INTRODUCED

A proposed ordinance that was prepared by the Northern California Power Agency Bond Counsel with respect to the public financing of the Shell project was presented for Council's adoption. Council was informed that the original ordinance that was passed did not allow for the issuance of Bond Anticipation Notes. The purpose of the proposed ordinance is to rectify that oversight. It allows greater financial flexibility and, therefore, potential savings. Other than authorizing the issuance of Bond Anticipation Notes, there is no other change in the authority previously approved.

Mayor Pro Tempore McCarty then moved for introduction of Ordinance No. 1221 - An Ordinance Authorizing the Northern California Power Agency to issue Revenue Notes. The motion was seconded by Councilman Murphy and carried by unanimous vote.

# Northern California Power Agency

770 Kieley Boulevard • Santa Clara, California 95051 • (408) 248-3422

**ROBERT E. GRIMSHAW**  
General Manager

January 5, 1981

TO: Members of the NCPA Commission

FROM: Robert E. Grimshaw

SUBJECT: Ordinance Authorizing the Northern California Power Agency  
to Issue Revenue Notes

Enclosed is a proposed ordinance that was prepared by our Bond Counsel with respect to the public financing of our Shell project.

The original ordinance that was passed did not allow for the issuance of Bond Anticipation Notes. The purpose of this ordinance is to rectify that oversight. The authority to issue Bond Anticipation Notes is to the members benefit. It allows greater financial flexibility and, therefore, potential savings. I strongly recommend this ordinance be approved by your governing body as promptly as possible. Other than authorizing the issuance of Bond Anticipation Notes, there is no other change in the authority previously approved.

Should you have any questions regarding this ordinance, please do not hesitate to contact my office.

Yours truly,



ROBERT E. GRIMSHAW  
General Manager

Enc.

ORDINANCE NO. \_\_\_\_\_

CITY OF \_\_\_\_\_

AUTHORIZING THE NORTHERN CALIFORNIA POWER AGENCY  
TO ISSUE REVENUE NOTES

WHEREAS, by Ordinance No. \_\_\_\_\_ of the City  
of \_\_\_\_\_, the Northern, California Power Agency  
("NCPA") organized under that certain Joint Powers Agreement  
to which this city is a party, dated July 19, 1968, as amended,  
was authorized to issue revenue bonds, as provided in said  
Joint Powers Agreement, pursuant to the provisions of Article 2  
(commencing with Section 6540), Chapter 5, Division 7, Title 1  
of the Government Code of the State of California in an amount  
not to exceed Twenty-Eight Million Dollars (\$28,000,000) ("Bonds"),  
for the project described in said ordinance;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF

\_\_\_\_\_ that:

Section 1. That the previous authorization of  
Bonds under Section 6547 of the Government Code shall hereby  
include in addition the authorization to issue notes or other  
evidences of indebtedness to the extent permitted or authorized  
by Sections 6547 and 6547.1 of the Government Code  
("Notes"). That the provisions of said ordinance with

respect to the Bonds shall apply to the Notes authorized hereunder.

Section 2. The project or studies or other preliminary cost to be funded (including reimbursement) by the Notes hereby authorized is the loaning of funds to Northern California Municipal Power Corporation No. Two, Non-Profit Corporation (the "Corporation"), for the purpose of acting on behalf of NCPA in the acquisition, construction, maintenance and operation of a power plant (using geothermal steam produced from certain leasehold interests of Shell Oil Company in Sonoma County, California and provided to NCPA pursuant to a geothermal steam sales agreement dated as of June 27, 1977, as amended), and other facilities and appurtenances necessary or convenient to such plant, including transmission lines.

Section 3. The maximum amount of Notes to be issued for the purposes described in Section 2 shall not exceed Twenty-Eight Million Dollars (\$28,000,000); the same as the amount of the Bonds.

Section 4. The anticipated sources of revenue or other funds to pay the principal and interest of the Notes are loan repayments to be made by the Corporation to NCPA under an appropriate loan agreement and to be derived from the sale of power

produced by the plant referred to in Section 2 hereof and any payments made by certain NCPA members pursuant to Section 5(b) of the "Member Agreement For The Construction, Operation and Financing of NCPA Geothermal Generating Unit Project #2" as may from time to time be amended; provided, further, such sources shall also include the proceeds of revenue bonds including the Bonds, or renewal of the Notes; in addition such Notes may be secured by a guaranty, letter of credit or other obligations or funds of a bank or private financial institution.

Section 5. The Cities of Palo Alto, Redding and Biggs are not participants in the acquisition, construction, maintenance, operation or financing of the plant referred to in the recitals hereof and nothing in this ordinance shall mean or be construed to mean that the City of Palo Alto, the City of Redding or the City of Biggs has assumed or agreed to assume any financial or other responsibility or liability associated with the acquisition, construction, maintenance, operation or financing of such plant.

Section 6. This ordinance is subject to the provisions for referendum prescribed by Section 3751.7 of the Elections Code of the State of California. Subject to the

foregoing, this ordinance shall take effect and be in force sixty (60) days from the date of adoption.

Section 7. The City Clerk of the City is hereby directed to cause this ordinance to be published within fifteen (15) days after its adoption in a newspaper of general circulation within the City of \_\_\_\_\_ and shall also do all other things required to cause notice of the adoption of this ordinance to be published in the manner required by Section 6040.1 of the Government Code of the State of California.

\_\_\_\_\_  
Presiding Officer of the Council

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

# Northern California Power Agency

770 Kiely Boulevard • Santa Clara, California 95051 • (408) 248-3422

**ROBERT E. GRIMSHAW**  
General Manager

January 5, 1981

TO: Members of the NCPA Commission  
FROM: Robert Grimshaw  
SUBJECT: Member Service Agreement

To date, the Agency has received an approved Member Service Agreement from Biggs, Gridley, Roseville, and Plumas-Sierra.

I would like to remind the remaining members that there is a time limitation on approval of the Member Service Agreement. It is my understanding that this date is February 12, 1981.

Yours truly,



ROBERT E. GRIMSHAW  
General Manager

CITY COUNCIL

WALTER KATNICH, Mayor  
JAMES A. McCARTY, Mayor Pro Tem  
RICHARD L. HUGHES  
ROBERT G. MURPHY  
JAMES W. PINKERTON, Jr.

CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
LODI, CALIFORNIA 95240  
(209) 334-5634

HENRY A. CLAVES, Jr.  
City Manager

ALICE M. REIMCHE  
City Clerk

RONALD M. STEIN  
City Attorney

January 29, 1981

Mr. Robert Grimshaw  
General Manager  
Northern California Power Agency  
770 Kiely Boulevard  
Santa Clara, CA 95051

Dear Mr. Grimshaw:

Enclosed please find a certified copy of Resolution No. 81-13 approving the Northern California Power Agency Member Service Agreement and authorizing the Mayor and City Clerk to execute the Agreement on behalf of the City. Also attached please find two executed copies of the Agreement.

Please return a fully executed copy of this Agreement at your earliest convenience.

Very truly yours,

*Alice M. Reimche*  
Alice M. Reimche  
City Clerk

AR:dg

Enc.

RESOLUTION NO. 81-13

RESOLUTION APPROVING NORTHERN CALIFORNIA POWER  
AGENCY MEMBER SERVICE AGREEMENT AND AUTHORIZING  
THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT  
ON BEHALF OF THE CITY

RESOLVED, that the City Council of the City of Lodi  
does hereby approve the Northern California Power Agency Member  
Service Agreement, a copy of which is attached hereto, marked  
Exhibit "A" and thereby made a part hereof.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk  
are hereby authorized to execute the subject agreements on  
behalf of the City.

Dated: January 21, 1981

I hereby certify that Resolution No. 81-13 was passed  
and adopted by the City Council of the City of Lodi in  
a regular meeting held January 21, 1981 by the following  
vote:

Ayes: Councilmen - Murphy, Pinkerton, Hughes, and  
Katnich

Noes: Councilmen - McCarty

Absent: Councilmen - None

*Alice M. Reimche*  
ALICE M. REIMCHE  
City Clerk

**NORTHERN CALIFORNIA POWER AGENCY  
MEMBER SERVICE AGREEMENT**

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**NORTHERN CALIFORNIA POWER AGENCY****MEMBER SERVICE AGREEMENT**

This Member service Agreement, hereinafter referred to as the "Agreement", is made and entered into effective \_\_\_\_\_, 1980, by and between the Northern California Power Agency, hereinafter referred to as "NCPA", and the signing Cities, not fewer than eight, of the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara and Ukiah, and Plumas-Sierra Rural Electric Cooperative, hereinafter individually or collectively referred to as "Members" unless the context requires otherwise.

WHEREAS, NCPA has heretofore been duly established as a public agency pursuant to the Joint Exercise of Powers Act of the Government Code of the State of California and, among other things, is authorized to acquire, construct, finance, and operate buildings, works, facilities and improvements for the generation and transmission of electric power and energy for resale to public and private users; and

WHEREAS, each of the Members owns a system for the distribution of electric power and energy for public and

private use and is authorized to obtain electric power and energy for its present or future requirements, through contracts with NCPA or otherwise; and

WHEREAS, NCPA has established and may establish projects for the supply of electric power and energy and may provide other services relating thereto to some or all of the Members from time to time upon their request, and the Parties desire to formalize their relationships to provide the framework and certain terms of future agreements to be entered into between them, to avoid misunderstanding, and to facilitate the activities of NCPA;

NOW, THEREFORE, in consideration of the covenants of each of the Parties hereto, it is hereby agreed as follows:

#### ARTICLE I

##### DEFINITIONS

1.00. The following terms, when used in this Agreement with the first letter capitalized, whether in the singular or the plural, shall have the following meanings:

1.01. "Delivery Point" for purposes of Sections 9.01 and 9.02 is the point or points where electric power and energy enters the electric distribution system of each of the Members.

1.02. "Development Fund Projects" mean projects under the "NCPA Member Agreement for Participation in Electric Power Development Fund", dated as of May 1, 1978, as

amended, commonly referred to as the "Development Fund Agreement."

1.03. "First Phase" is defined in section 2.02(a) hereof.

1.04. "NCPA" means the Commission of NCPA.

1.05. "NCPA Percentage Participation" for any member for the most recent prior calendar year means the ratio of the maximum firm electric power demand of such Member for the year as reported to the Federal Energy Regulatory Commission, to the total of such demands for all NCPA Members.

1.06. "NCPA Project" is defined in section 2.01.

1.07. "Participating Member" means a member who enters into an agreement with NCPA relating to the Second Phase or Third Phase of an NCPA Project.

1.08. "Project Participation Percentage" means the percentages of participation of a Participating Member in an NCPA Project as specifically set forth in an agreement between NCPA and all Participating Members. Such agreement shall be a Service Schedule

1.09. "Second Phase" is defined in section 2.02(b).

1.10. "Service Schedule" means an agreement referred to in section 2.04 inclusive of amendments thereto, or any other agreement between NCPA and Members made pursuant to this Agreement.

1.11. "Supplemental Power Supply" means any sources of power other than on NCPA Project.

1.12. "Third Phase" is defined in Section 2.02(c).

1.13. "Uncontrollable Forces" means act of God, a public enemy, sabotage, strikes, lockouts, riots, rebellions, injunctions, or interference through legal proceedings, municipal, State or Federal laws or regulations, or the requisitions of any governmental or acting authority, beyond the reasonable control of the Party.

## ARTICLE II

### PROJECT SERVICES

2.01. Scope. All projects undertaken by NCPA beyond the first phase shall be known as NCPA Projects, and the relationships between NCPA and its Members with respect to all phases of NCPA Projects shall be as provided for in this Agreement, except where the Service Schedule provides otherwise.

2.02. Phases. Any project undertaken by NCPA may have one or more of the following phases:

- (a) First Phase consists of all preliminary investigation work done by NCPA staff on a project supported solely out of its general funds and prior to the time that NCPA declares it as an NCPA Project. For the

purpose of ending the First Phase, NCPA may declare a termination of investigations regarding the project or declare the project to be an NCPA Project by entering into an agreement with one or more Members desiring to participate as indicated in subsection (b) or (c) below.

(b) Second Phase consists of all work done after one or more of the Members has signed an agreement with NCPA for project study, design, or development, but before any Member has signed an agreement with NCPA for the Third Phase of the Project.

(c) Third Phase consists of all work done after one or more of the Members has contracted with NCPA to participate in the financing, construction, and/or rights to the output, of the NCPA Project.

Nothing herein prevents the combination of the Second and Third Phases if NCPA and the Participating Members so desire.

**2.03. Participation.** The Second and Third Phases shall be participated in and financed by those Members who elect to participate therein, and enter into an appropriate agreement therefor. The Project Participation Percentage

shall not be greater than the NCPA Percentage Participation of the Member divided by the sum of NCPA Percentage Participation of all Participating Members, unless the NCPA Project is not fully subscribed because one or more of the Participating Members elects to have a Project Participation Percentage less than its maximum percentage. In such case any unsubscribed portion of the NCPA Project shall be divided among Participating Members electing to increase their share in proportion to their respective Project Percent Participation, unless otherwise unanimously agreed to by the Project Participating Members electing to increase their share.

Any agreement between NCPA and its Participating Members relating to the Third Phase of an NCPA Project shall provide for reimbursement of the expenditures of Members in the Second and Third Phases of such project, along with interest as provided for in the appropriate Service Schedule, out of final long term financing of the NCPA Project.

Those who are not Participating Members in the Second Phase may participate in the Third Phase provided no Second Phase Participating Member objects within 45 days after written notice of a desire to participate.

This section shall not apply to Development Fund Projects.

2.04. Service Schedules. All agreements between NCPA and Participating Members relating to the Second and Third Phases of NCPA Projects including Development Fund Projects shall be attached to this Agreement as Service Schedules, and shall be numbered consecutively in the order of their approval.

2.05. Project Voting. All Service Schedules for NCPA Projects other than Development Fund Projects, Calaveras, and Feather River shall provide as follows:

(a) that a quorum of the Commission, for purposes of acting upon matters relating to an NCPA Project, shall consist of those Commissioners, or their designated alternates, representing a numerical majority of the Participating Members in such project, or, in the absence of such, those Commissioners representing Members having a combined Project Participation Percentage of at least 50%.

(b) that special meetings of the Commission to act only on matters relating to an NCPA Project may be called by a majority of the Commissioners of Participating Members upon notice as required by the Ralph M. Brown Act.

(c) that at regular or special meeting of the Commission, voting on matters relating to an NCPA Project shall be by Project Participation Percentage, and more than a 50% affirmative vote shall be required to take action.

(d) that upon demand of any Commissioners (including alternates) of Project Participants in the involved NCPA Project, at any meeting of the Commission other than the special meeting referred to in paragraph (b) above, the vote on any issue relating to such Project shall be by Project Participation Percentage and 65% or greater affirmative vote shall be required to take action.

(e) that any Project Participant may veto a discretionary action of the Project Participants relating to the project that was not taken by a 65% or more Project Participation Percentage vote within 10 days following mailing of notice of such Commissioners' action by giving written notice of veto to NCPA unless at a meeting of Commissioners or Alternates of Project Participants called for the purpose of considering the veto, held within 30 days after such veto notice, the holders of 65% or more of the Project Participation Percentage shall vote to override the veto.

(f) that 65% of percentage participation specified in this section shall be reduced by the amount that the percentage participation of any member shall exceed 35%, but such 65% shall not be reduced below 50%.

2.06. Other Projects. Members signing this Agreement shall not pursue the development of power projects outside of their city limits (or service area, in the case of Plumas-Sierra Rural Electric Cooperative) either alone or

with other parties without first offering such projects to NCPA. Such members shall allow NCPA 30 days to adopt a resolution declaring its intent to pursue the project. If NCPA decides to pursue such project within 30 days of members' notification of NCPA, then no member shall pursue such project individually or in combination with other members or others.

As used in this section "power project" includes all construction or ownership in whole or in part, of a power generation plant, and includes the purchase of power from sources other than Pacific Gas and Electric Company or Western Area Power Administration, but does not include any project as to which the member has taken significant action prior to the date of this agreement, nor does it include the acquisition or development of rights to water, or steam, or fuel for power generation.

Each member shall make a good faith effort to comply with the provision in this section 2.06, and will make every effort not to deviate from such policies except where in its judgment such compliance may threaten the member's ability to pursue and develop the project.

2.07. Use of NCPA Consultants. Each member agrees that it shall neither individually, nor in concert with any other member or any third party, employ or retain an NCPA consultant or NCPA legal counsel for purposes of pursuing a non-NCPA power project without first notifying NCPA.

2.08. No Unilateral Negotiations. Each member agrees that it shall neither individually, nor in concert with any other member or any third party, enter into a transmission, interconnection, integration, or any similar agreement with a private utility or public agency without first notifying NCPA. If a member desires to enter into such an agreement with PG&E, said member agrees that the agreement shall contain a provision which provides that the agreement may be superseded by any subsequent NCPA/PG&E interconnection agreement that provides for, among other things, comparable services contained in the Member/PG&E agreement.

### ARTICLE III

#### POWER AND ENERGY SALES TO THE MEMBER

3.01. NCPA Projects. As specified in Service Schedules attached hereto, NCPA shall deliver, or cause to be delivered, to the point of delivery the Member's participation share of the capacity and energy from such specified NCPA Projects.

3.02. Supplemental Power Supply. NCPA shall deliver or cause to be delivered Supplemental Power Supply from the suppliers of such capacity and energy to Members to the extent, if any, provided for in an agreement to be entered into between NCPA and such Members and attached hereto as a Service Schedule. NCPA's obligation to provide Supplemental Power Supply to any Member under such a Service

Schedule shall be limited to the supplying party's obligation to provide such capacity and energy as set forth in the agreement or agreements to provide capacity and energy between NCPA and the supplying party which shall become Service Schedules hereto. The Member shall pay to NCPA an amount for providing such Supplemental Power Supply to the Member as per Service Schedule.

#### ARTICLE IV

##### SCHEDULING OF RESOURCES

#### 4.01. NCPA Projects and Supplemental Power Supply.

NCPA shall schedule all power from NCPA Projects, and shall schedule all power from PG&E or other suppliers which the Members have requested NCPA to obtain for them, all in accordance with Service Schedules comprising agreements between NCPA and such Participating Members which shall be attached hereto.

4.02. Other Member Projects. NCPA may also schedule power from other projects in which the Members are involved, pursuant to an agreement between NCPA and such Members, which agreement shall be attached hereto as a Service Schedule. Such scheduling shall not be undertaken in a fashion that will reduce the benefits to Members of scheduling under the next preceding section.

4.03. Method. Scheduling by NCPA may be provided directly by NCPA, or pursuant to a contract between NCPA

and another entity which will provide that function, with appropriate controls exercised by NCPA as may be provided in a Service Schedule between NCPA and its Members.

## ARTICLE V

### PLANNING

5.01. Forecasts by Members. Each Member shall submit to NCPA annually, within the time specified by NCPA, and at such other times as may be reasonably required, a forecast of the Member's peak demand and energy requirements for the ensuing 20 calendar year period, as well as a forecast of capacity and energy, if any, from sources other than NCPA Projects and Supplemental Power Supply.

5.02. Assistance to Members. A Member may upon request, and agreement to pay the costs thereof, obtain assistance from NCPA in preparing the forecast, pursuant to an agreement between such Member and NCPA which shall be attached hereto as a Service Schedule; but obtaining such assistance shall not relieve the Member of responsibility for the forecast.

5.03. Adoption of Plan. On the basis of the forecasts and other data supplied to NCPA by its Members, NCPA shall prepare in cooperation with such Members a plan for the supply of capacity and energy to all Members. Such plan shall be updated annually and shall include existing and potential sources of capacity and energy including NCPA

Projects, Supplemental Power Supply, and all other sources of power available to the Members. NCPA shall formally adopt such a plan annually.

5.04. Forecast Errors. When actual usage by a Member exceeds the tolerances allowed for a forecast in a Service Schedule attached hereto, based on the agreement(s) between NCPA and the party or parties supplying capacity and energy to NCPA, and the total usage of all NCPA Members falls outside such tolerances, all Members whose usage exceeds the tolerance shall share the added cost resulting to NCPA on account of exceeding such tolerances in proportion to the amount of excess by each party.

#### ARTICLE VI

##### SALE OF SURPLUS POWER

6.01. Sale by NCPA. Except where the applicable Service Schedule provides otherwise, when a Member does not need its entire share of an NCPA Project in which it is participating for a specific time interval, NCPA shall, if requested by such Member to do so, sell the portion of a Member share of an NCPA Project which is in excess of the Member's needs. In selling such power, NCPA shall be guided by the following:

1. NCPA shall use its best efforts to sell such excess power at a price at least equal to the Member's cost for such power.

2. Other Members participating in the Project shall have a right of first refusal, and other NCPA members shall have the second right, pursuant to paragraphs 4 and 5 of this section 6.01.
3. NCPA shall not purchase power from other sources until it has disposed of all Members' excess power from NCPA Projects.
4. If NCPA can purchase equivalent power from other sources for less than the Member's cost for the excess power, the sale price of such power to another NCPA Member shall be equal to the cost of purchasing the power from another source.
5. If the alternative cost of purchasing power for other Members is more than a Member's cost for the excess power from an NCPA Project, then the sales price shall be the Member's cost plus one-half the difference between the Member's cost and the cost of power from an alternative source.

6.02. Development Fund Projects. This article shall not apply to Development Fund Projects.

ARTICLE VII

REPORTS, RECORDS, ACCOUNTS, AUDITS

7.01. Records and Accounts. NCPA shall keep accurate records and accounts for each NCPA Project, for supplemental power supply, for each identifiable service which it supplies to the Member or other Members through this Agreement or through any Service Schedule which may be entered into between NCPA and the Member or other Members, and for other transactions of NCPA. Such records and accounts shall be kept in general accordance with the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, as adopted by the Federal Energy Regulatory Commission and amended from time to time, and shall be audited annually by a firm of independent certified public accountants experienced in electric utility accounting and of national reputation. Such records and accounts shall be made available to members by NCPA for inspection at any reasonable time, and a copy of such annual audit shall be submitted to the Member not later than four months after the end of NCPA's Fiscal Year.

7.02. Reports to Other Agencies. NCPA will submit such reports and records which are required or may be required by the California Energy Commission, the Federal Energy Regulatory Commission or other such local, state or

federal agencies, as such reports and records are required for NCPA to fulfill its obligations under this Agreement.

7.03. Reports to Members. NCPA will prepare and issue to the Member the following reports each month of the contract year:

- a. Financial Operating Statement.
- b. Status of Annual Budget.
- c. Such additional reports as are required under the Service Schedules to which Member is a signatory.

#### ARTICLE VIII

#### BUDGETS

8.01. Principles. It is the intention of the parties hereto that the responsibilities and level of effort of NCPA's staff is set forth in this Agreement and the Service Schedules attached hereto, and that funding and support for staff will be provided by the Members to allow it to perform the functions mandated to them herein.

8.02. Adoption. NCPA shall prepare and submit to the Members at least three calendar months prior to each July 1 a proposed Annual Budget for the ensuing Fiscal Year. The Annual Budget shall include costs identifiable for each Service Schedule, costs associated with NCPA fulfilling other obligations as identified herein (General Fund), as

required by any other agreements entered into by NCPA, and any contingency funds which NCPA deems necessary to maintain. After consideration of comments of the Members, NCPA shall adopt an Annual Budget for such Fiscal Year.

8.03. Amendments. During each Fiscal Year, NCPA shall from time to time review the Annual Budget for such Fiscal Year. In the event such review indicates that the Annual Budget does not, or will not, substantially correspond with actual receipts and expenditures, or if at any time during such Fiscal Year there are or are expected to be extraordinary receipts, credits or costs substantially affecting the Annual Budget, NCPA shall submit to the Members and subsequently adopt an amended Annual Budget which shall supersede the Annual Budget or amended Annual Budget.

8.04. Information. NCPA shall cause staff to develop a detailed progress reporting system. This system shall be based on presenting reports on a monthly basis with regard to status of work (actual status of work compared to planned status of work) and with regard to cost (actual costs to date compared to planned costs to date).

8.05. Payment. Each member shall pay amounts due in accordance with the budget adopted pursuant to Section 8.02 in four equal amounts payable on or before July 1, October 1, January 1 and April 1. If the budget is amended

during the year, the remaining payments for that year shall be adjusted to reflect the amended budget. Any payments not made within 30 days following the due date shall bear interest at the prime rate of the Bank of America NT & SA, then in effect computed on a daily basis plus two percent until paid.

Nothing in this agreement shall obligate any Member to pay more to NCPA than is provided in NCPA's joint powers agreement and in Service Schedules approved by it attached hereto.

#### ARTICLE IX

#### LIABILITY OF PARTIES

9.01. Division of Responsibility. Neither NCPA, nor its Members, nor a corporation acting on behalf of NCPA or the Members, shall be responsible for the transmission, control, use, or application of electric capacity and energy provided under the Service Schedules attached hereto on the other party's side of the Delivery Point therefor and shall not, in any event, be liable for damage or injury to any person or property whatsoever arising, accruing, or resulting from, in any manner, the receiving, transmission, control, use, application, or distribution by NCPA, or its Members, or a corporation acting on behalf of NCPA or the Members, of said electric power and energy on the other party's side of the delivery point.

9.02. Indemnity. NCPA and the Members individually shall indemnify, defend, hold, and save each other harmless from any and all loss or damage sustained, and from any and all liability to any person or property incurred by the other(s) by reason of any act or performance, or failure to act or perform, on the part of the indemnifying party or its officers, agents, or employees in constructing, maintaining or operating the indemnifying party's apparatus, applicances, or other property, or in the transmission, control or application, redistribution, delivery, or sale of said power and energy on the indemnifying party's side of said Delivery Point. Such indemnification shall hold harmless the one indemnified, its agents, servants, and employees, from and against any and all liability and any and all losses, damages, injuries, costs, and expenses, including expenses incurred by the one indemnified, its agents, servants, or employees, in connection with investigating any claim or defending any action and including reasonable attorney's fees incurred or suffered by the one indemnified, its agents, servants, or employees.

#### ARTICLE X

##### ASSIGNMENT OF AGREEMENT

10.01. Limitations. This Agreement, exclusive of the Service Schedules, shall inure to the benefit of and shall be binding upon the respective successors and

assignees of the parties to this Agreement; provided, however, that, except as provided in the event of a default, and, except for the assignment by NCPA authorized hereby, neither this Agreement nor any interest herein shall be transferred or assigned by either party hereto except with the consent in writing of the other party hereto; provided, however, that such consent shall not be withheld unreasonably. No assignment or transfer of this Agreement shall relieve the parties of any obligation hereunder, except as otherwise so provided herein. This Agreement shall not be assigned by Plumas-Sierra Rural Electric Cooperative without the approval in writing of the Administrator of the Rural Electrification Administration.

10.02. Pledge. The Members acknowledge and agree that NCPA or a corporation acting on behalf of NCPA may assign and pledge to a corporation acting on behalf of NCPA or any Trustee designated in a Bond Resolution any of NCPA's rights under the provisions of this Agreement exclusive of any Service Schedule except as expressly provided therein. Upon the execution of such assignment and pledge, such assignee shall have the rights and remedies herein provided to NCPA, and any reference herein to NCPA shall be deemed; with the necessary changes in detail, to include such assignee which shall be a third-party beneficiary of the covenants and agreements of the Member herein contained.

## ARTICLE XI

### UNCONTROLLABLE FORCES

11.01. No default. None of the Parties shall be considered to be in default with respect to any obligation hereunder other than the payment of money if prevented from fulfilling such obligation by reason of Uncontrollable Forces but such Party shall, however, use reasonable diligence to put itself again in a position to carry out its obligations hereunder.

## ARTICLE XII

### TERM OF AGREEMENT

12.01. Original Term. Except as specifically otherwise provided herein, this Agreement shall become effective upon the date first above written and shall continue in full force and effect for a period of thirty (30) years from said effective date or until termination of all Service Schedules attached hereto, whichever occurs last. Thereafter this Agreement shall continue until terminated by any party by written notice to all Parties giving not less than three years' intention to terminate.

This Agreement, any amendments thereto, and any Service Schedule shall not be binding upon Plumas-Sierra Rural Electric Cooperative until approved in writing by the Administrator of the Rural Electrification Administration.

12.02. Termination by Members. Notwithstanding the above, the Member may terminate its participation in this

Agreement at any time upon three years' written notice to NCPA, provided, however, that such terminating Member shall be obligated for all expenses and liabilities incurred prior to the effective date of such termination on its behalf by NCPA pursuant to and in accordance with this Agreement, and shall maintain its rights and liabilities as contained in the Service Schedules attached hereto. Further, such terminating Members shall in any event be obligated and bound by the Member covenants as contained herein and as are a part of the security afforded by this Agreement for the payment of principal of and premium, if any, and interest on any outstanding Bonds.

12.03      Execution of Agreement. Members of NCPA desiring to enter into this Agreement must execute this Agreement before February 12, 1981, provided, however, members of NCPA may enter into this Agreement after such date upon a showing of good cause and with the approval of the Participating Members in accordance with the voting procedures of Section 2.05 herein, but in no event after February 12, 1982. This section does not apply to public entities that become members of NCPA after the effective date of this Agreement.

IN WITNESS WHEREOF each NCPA Member has executed a counterpart of this agreement with the approval of its governing body, and caused its official seal to be affixed

and NCPA has executed each counterpart of this agreement in accordance with the authorization of its Commission.

NORTHERN CALIFORNIA POWER AGENCY

By \_\_\_\_\_

and \_\_\_\_\_

CITY OF BIGGS

By \_\_\_\_\_

and \_\_\_\_\_

CITY OF HEALDSBURG

By \_\_\_\_\_

and \_\_\_\_\_

CITY OF LOMPOC

By \_\_\_\_\_

and \_\_\_\_\_

CITY OF REDDING

By \_\_\_\_\_

and \_\_\_\_\_

CITY OF ALAMEDA

By \_\_\_\_\_

and \_\_\_\_\_

CITY OF GRIDLEY

By \_\_\_\_\_

and \_\_\_\_\_

CITY OF LODI

By Walter J. Katrich  
Walter J. Katrich  
Mayor

and Alice M. Reimche  
Alice M. Reimche, City Clerk

CITY OF PALO ALTO

By \_\_\_\_\_

and \_\_\_\_\_

CITY OF ROSEVILLE

By \_\_\_\_\_

and \_\_\_\_\_

CITY OF UKIAH

By \_\_\_\_\_

and \_\_\_\_\_

CITY OF SANTA CLARA

By \_\_\_\_\_

and \_\_\_\_\_

PLUMAS SIERRA RURAL ELECTRIC  
COOPERATIVE

By \_\_\_\_\_

and \_\_\_\_\_

