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Page 380

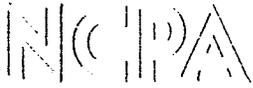
REPORTS OF THE
CITY MANAGER

REGULAR CALENDAR

TRANSFER AND SALES
AGREEMENTS RE NCPA
TRANSFER OF CITY OF
REDDING'S INTEREST
IN CALAVERAS PROJECT
APPROVED

RES. NO. 85-39

Following introduction of the matter by Staff and discussion, with questions regarding the subject being posed, Council, on motion of Council Member Olson, Reid second, adopted Resolution No. 85-39 approving the transfer and sales agreements regarding Northern California Agency transfer of the City of Redding's interest in the Calaveras Project, and authorized the Mayor and City Clerk to execute the documents on behalf of the City.



Northern California Power Agency

180 Cirby Way, Roseville California 95678

ROBERT K. EXGRIMSHAW

General Manager

(916) 781-4202

February 26, 1985

RECEIVED

FEB 27 10 09 AM '85

ALICE H. DENICHE
CITY CLERK
CITY OF LOS ANGELES

TO: City Clerks
FROM: Gail Sipple
SUBJECT: Transfer and Sales Agreements Regarding the Calaveras Project

Enclosed is a cover letter from Mudge Rose forwarding two agreements and resolutions to certain representatives of your city.

For your information and use I am sending these documents to you since Mudge Rose is asking that Council/Board action be taken prior to March 21. Please note that not all cities have to approve both agreements. The title page of each agreement list the cities required to sign.

Upon approval of the agreement(s), please forward an executed copy to me along with the resolution(s) approving such agreement(s).

If you have any questions, please contact me or Jim Anderson of Mudge Rose.

Yours truly,



GAIL SIPPLE
Executive Assistant

cc: Mudge Rose
Martin McDonough
Paul Cavote

Enc.

MUDGE ROSE GUTHRIE ALEXANDER & FERDON

SUITE 2020

333 SOUTH GRAND AVENUE

LOS ANGELES, CALIFORNIA 90071

213-613-1112

TELECOPIER

213-660-1358

2121 K STREET, N.W.

WASHINGTON, D.C. 20037

202-429-9355

12, RUE DE LA PAIX

75002, PARIS, FRANCE

261-57-71

180 MAIDEN LANE
NEW YORK, N.Y. 10038
212-510-7000

February 21, 1985

TO THE PARTIES NAMED ON THE
ATTACHED DISTRIBUTION LIST

Northern California Power Agency
Transfer of the City of Redding's
Interest in the Calaveras Project

Enclosed please find final drafts of the Agreement for Transfer of Rights to Capacity and Energy of the North Fork Stanislaus River Hydroelectric Development Project (the "Transfer Agreement") and the Agreement for Sale of Surplus Capacity and Energy of the North Fork Stanislaus River Hydroelectric Development Project (the "Sale Agreement").

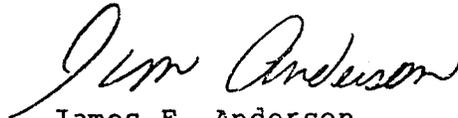
I have also enclosed forms of resolutions approving the adoption of these Agreements in substantially the form such Agreements currently exist. Each of the Project Participants, except the City of Redding, will need to adopt the resolution approving the Sale Agreement and those Project Participants who are a party to the Transfer Agreement need to adopt the resolution approving the Transfer Agreement.

The Transfer Agreement and Sale Agreement are to be approved by the Commission at its next regular meeting on March 1, 1985. Because of the timing of the financing it is important that each of the Project Participants approves the applicable Agreements by resolution as soon as possible. Those Project Participants which prefer to wait until the Commission approves the Agreements may do so. The Transfer Agreement and Sale Agreement need to be approved prior to March 21, 1985 in order for the financing to be completed.

FEB 25 1985

If you have any comments or questions concerning the above,
please feel free to telephone me.

Very truly yours,


James F. Anderson

JFA/pk
Enclosures

Northern California Power Agency
180 Cirby Way
Roseville, California 95678
Attn: Mr. Paul E. Cavote
General Manager

Northern California Power Agency
180 Cirby Way
Roseville, California 95678
Attn: Mr. Hari N. Modi
Project Manager

Ms. Maerose J. Humphreys
Assistant to General Manager
Bureau of Electricity
Department of Public Utilities
City of Alameda
P.O. Drawer 4
Alameda, California 94501

Mr. Harold Mayfield
City Engineer
City of Biggs
P.O. Box 307
Biggs, California 95917

Mr. Henry Ford
City Administrator
City of Gridley
685 Kentucky Street
Gridley, California 95948

Mr. Clifton Shifflett
City of Gridley
685 Kentucky Street
Gridley, California 95948

Mr. Dennis Mrkvicka
City Hall - 126 Matheson Street
Healdsburg, California 95448

Mr. Quentin A. Mizer
Director of Utilities
City Hall - 316 Vernon Street
Roseville, California 95678

Mr. John P. McGuire
Electric Department
City Hall - 1500 Warburton Avenue
Santa Clara, California 95050

Mr. Leonard S. Lindley
Director
Department of Electricity
City Hall - 760 Parkview Avenue
Redding, California 96001

Richard Young
Director of Utilities
City Attorney's Office
City of Palo Alto
P.O. Box 10250
Palo Alto, California 94303

Earl D. Murphy, Esq.
3435 Scenic Drive
Redding, California 96001

Anthony C. Bennetti, Esq.
Sr. Assistant City Attorney
City Attorney's Office
City of Palo Alto
P.O. Box 10250
Palo Alto, California 94303

Robert E. Crawford, Esq.
314 Center Street
Healdsburg, California 95448

Michael F. Dean, Esq.
City Hall - 316 Vernon Street
Roseville, California 95678

Randall A. Hays, Esq.
City Hall - 760 Parkview Avenue
Redding, California 96001

David H. Hirsch, Esq.
City Hall - 100 Civic Center Plaza
Lompoc, California 93438

David R. Lane, Esq.
(Gridley City Attorney)
Rich, Fudge, March & Morris, Inc.
1129 D Street
Marysville, California 95901

Robert Millington, Esq.
(Biggs City Attorney)
Millington & Millington
446 Kentucky Street, Box 876
Gridley, California 95948

Edwin J. Moore, Esq.
City Hall - 1500 Warburton Avenue
Santa Clara, California 95050

David J. Rapport, Esq.
P.O. Box 488
City Hall - 203 S. School Street
Ukiah, California 95482

Ronald Stein, Esq.
City Hall - 221 W. Pine Street
Lodi, California 95240

Carter J. Stroud, Esq.
City Hall
Santa Clara Avenue - Oak Street
Alameda, California 94501

McDonough, Holland & Allen
555 Capitol Mall, Suite 950
Sacramento, California 95814
Attn: Martin McDonough, Esq.

Brown, Wood, Ivey, Mitchell & Petty
One World Trade Center
58th Floor
New York, New York 10048
Attn: Homer D. Schaaf, Esq.

Merrill Lynch Capital Markets
Municipal Utilities Department
39th Floor
One Liberty Plaza/165 Broadway
New York, New York 10080
Attn: Mr. Richard H. Molke, Jr.
Vice President

Merrill Lynch Capital Markets
Municipal Utilities Department
39th Floor
One Liberty Plaza/165 Broadway
New York, New York 10080
Attn: Mr. Andrew Sanford
Research Analyst

Merrill Lynch Capital Markets
Municipal Utilities Department
39th Floor
One Liberty Plaza/165 Broadway
New York, New York 10080
Attn: Mr. Willson Ropp
Research Analyst

Mudge Rose Guthrie
Alexander & Ferdon
333 South Grand Avenue
Suite 2020
Los Angeles, California 90071
Attn: Eugene J. Carron, Esq.

Mudge Rose Guthrie
Alexander & Ferdon
180 Maiden Lane
New York, New York 10038
Attn: John T. Kelly, Esq.

Resolution No. _____

RESOLUTION APPROVING THE AGREEMENT FOR TRANSFER
OF RIGHTS TO CAPACITY AND ENERGY OF THE NORTH
FORK STANISLAUS RIVER HYDROELECTRIC DEVELOPMENT
PROJECT

WHEREAS, the City of Redding and each of the Purchasing Participants have entered into the Third Phase Agreement with NCPA pursuant to which NCPA has agreed to provide, and the City of Redding and each of the Purchasing Participants have agreed to take or cause to be taken, their respective Project Entitlement Percentages of the capacity and energy of the Project; and

WHEREAS, Section 9(c) of the Third Phase Agreement authorizes the City of Redding, as a Project Participant, subject to the terms and conditions thereof, to transfer, assign, sell or exchange all or a portion of the Project capacity and energy to which it is entitled to the Purchasing Participants and provides that the Purchasing Participants shall be entitled to the Project capacity and energy to the extent the same is so transferred, assigned, exchanged, or sold; and

WHEREAS, the City of Redding has determined to transfer assign and sell all of its Project Entitlement Percentage of the capacity and energy of the Project to the Purchasing Participants in accordance with Section 9(c) of the Third Phase Agreement on the terms and conditions herein contained; and

WHEREAS, no Bonds have been issued to finance the cost of the Project; and

WHEREAS, all the other conditions to the transfer, sale and assignment of the City of Redding's Project Entitlement Percentage of the Project capacity and energy have been satisfied or will be satisfied on the effective date of such transfer, sale and assignment provided for in the Agreement for Transfer of Rights to Capacity and Energy of the North Fork Stanislaus River Hydroelectric Development Project (the "Transfer Agreement"); and

WHEREAS, Section 9(c) of the Third Phase Agreement further provides that the Project Entitlement Percentage of the Project Participant so transferring, assigning, exchanging or selling all or a portion of its Project Entitlement Percentage shall be decreased and the obligations of such Project Participant under the Third Phase Agreement shall be discharged to the extent Project capacity and energy is transferred, assigned, exchanged or sold except for obligations incurred by NCPA prior to the date of such transfer, assignment, exchange or sale;

WHEREAS, there has been proposed and submitted to this meeting a form of the Transfer Agreement.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of _____, as follows:

Section 1. The City Council hereby finds and determines that the terms and conditions of the Transfer Agreement in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein be, and the same is hereby, approved.

Section 2. The City is hereby authorized to enter into the Transfer Agreement and the _____ and the _____ are hereby authorized to execute and deliver the Transfer Agreement by and on behalf of the City with such changes, insertions and omissions as may be approved by _____, said execution being conclusive evidence of such approval.

Section 11. The _____ and _____, and any other proper officer of the City, acting singly, be and each of them hereby is authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by the Transfer Agreement and by this resolution.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF _____, this ___ day of _____, 1985, by the following vote:

AYES:

COUNCILMEN:

NOES:

COUNCILMEN:

ABSENT:

COUNCILMEN:

ATTEST: _____
City Clerk
City of _____

AGREEMENT FOR SALE OF SURPLUS CAPACITY AND ENERGY
OF THE NORTH FORK STANISLAUS RIVER HYDROELECTRIC
DEVELOPMENT PROJECT

Dated as of February 1, 1985

By and Among

NORTHERN CALIFORNIA POWER AGENCY

and

City of Alameda
City of Biggs
City of Gridley
City of Healdsburg
City of Lodi
City of Lompoc
City of Palo Alto
City of Roseville
City of Santa Clara
City of Ukiah
Plumas-Sierra Rural Electric Cooperative

AGREEMENT FOR SALE OF SURPLUS CAPACITY AND ENERGY
OF THE NORTH FORK STANISLAUS RIVER HYDROELECTRIC
DEVELOPMENT PROJECT

This Agreement, dated as of February 1, 1985, by and among Northern California Power Agency, a joint powers agency of the State of California and the Project Participants (capitalized terms used herein shall have the meanings given such terms in Section 1 hereof),

WITNESSETH:

WHEREAS, NCPA and each of the Project Participants have entered into the Third Phase Agreement pursuant to which NCPA has agreed to provide, and each of the Project Participants has agreed to take or cause to be taken, their respective Project Entitlement Percentages of the capacity and energy of the Project; and

WHEREAS, the City of Redding has determined not to participate in the Project; and

WHEREAS, in order to finance the cost of the Project, it is necessary that the aggregate of the Project Entitlement Percentages of all Project Participants willing to participate in the Project equal 100%; and

WHEREAS, in order to permit the financing to proceed, the Purchasing Participants have agreed to take, or cause to be taken, the City of Redding's Project Entitlement Percentage and to that end, each will enter into the Transfer Agreement; and

WHEREAS, Sections 9 and 10 of the Third Phase Agreement authorize each Project Participant, subject to the terms and conditions thereof, to transfer, assign, sell or exchange all or a portion of the surplus Project capacity and energy to which it is entitled; and

WHEREAS, Section 10 of the Third Phase Agreement provides certain terms and conditions to the sale by NCPA of surplus Project capacity and energy; and

WHEREAS, as an inducement to the Purchasing Participants to enter into the Transfer Agreement and to take, or cause to be taken, the Purchased Project Entitlement Percentages, the other Project Participants have determined that, notwithstanding their rights to sell surplus Project capacity and energy under the Third Phase Agreement, to permit any such transfer or sale under a Long Term Power Purchase Contract to be deemed a transfer or sale of the Purchased Project Entitlement Percentages, all on the terms and conditions herein contained;

NOW THEREFORE, the parties hereto do agree as follows:

1. **Definitions.** Terms used herein which are defined in the Third Phase Agreement shall have the same meanings herein as are

given such terms in the Third Phase Agreement. In addition, the following terms shall, for all purposes of this Agreement, have the following meanings:

"Long Term Power Purchase Contract" means any agreement by a Project Participant, other than the Transfer Agreement, for the sale or transfer of Project capacity and energy to any person, including another Project Participant, which has a term in excess of one year; provided, however, that any such agreement which is subject to termination at the option of either party shall be considered to have a term extending to the first date such option may be exercised.

"Purchased Project Entitlement Percentage" means, with respect to each Purchasing Participant, such Purchasing Participant's share of the City of Redding's Project Entitlement Percentage of the capacity and energy of the Project identified in Section 2 of the Transfer Agreement.

"Purchasing Participant" means each of the City of Alameda, the City of Healdsburg, the City of Roseville, and the City of Santa Clara.

"Third Phase Agreement" means the Agreement for Construction, Operation and Financing of the North Fork Stanislaus River Hydroelectric Development Project, dated as of September 1, 1982, by and among NCPA and the Project Participants as the same has been and may be amended or supplemented from time to time in accordance with its terms.

"Transfer Agreement" means the Agreement for Transfer of Rights to Capacity and Energy of the North Fork Stanislaus River Hydroelectric Development Project, dated as of February 1, 1985, by and among the City of Redding and the Purchasing Participants as the same may be amended or supplemented from time to time in accordance with its terms.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, agencies and corporations.

2. Sale of Project energy and capacity under Long Term Power Purchase Contracts. (a) As an inducement to each Purchasing Participant to take or cause to be taken its respective Purchased Project Entitlement Percentage, each Project Participant agrees that each sale or transfer of Project capacity and energy under a Long Term Power Purchase Contract shall for all purposes be deemed a transfer or sale of the Purchased Project Entitlement Percentage of Project capacity and energy by the Purchasing Participants in the

proportion that such Purchasing Participant's Purchased Project Entitlement Percentage bears to the total of all Purchased Project Entitlement Percentages under the Transfer Agreement; provided, however, that any Purchasing Participant may, by notice in writing delivered to NCPA, elect not to have such transfer or sale treated as a transfer or sale of its Purchased Project Entitlement Percentage.

(b) Within five days of entering into a Long Term Power Purchase Contract, any Project Participant who enters into a Long Term Power Purchase Contract, shall provide a copy of such Contract to NCPA and to each of the Purchasing Participants. The Purchasing Participants shall have seven days from receipt of such Contract to provide notice to NCPA to elect not to have such transfer or sale treated as a transfer or sale of its Purchased Project Entitlement Percentage.

(c) The provisions of subsection (a) of this Section 2 shall apply to each sale or transfer of Project capacity and energy under a Long Term Power Purchase Contract until the aggregate of the Project capacity and energy which has been or, but for an election made by a Purchasing Participant pursuant to subsection (a) of this Section 2, would have been treated as a transfer or sale of the Purchased Project Entitlement Percentages equals 10.04%.

3. Approval of Transfer Agreement. NCPA and each Project Participant hereby approves the Transfer Agreement and the transfer, sale and assignment of the Purchased Project Entitlement Percentages by the City of Redding to the Purchasing Participants thereunder and agrees to such transfer, sale and assignment.

4. Effective Date. This Agreement shall become effective for all purposes upon the execution hereof by NCPA and each of the Project Participants.

5. Termination. This Agreement shall not be subject to termination by any party under any circumstances, whether based upon the default of any other party under this Agreement, or any other instrument, or otherwise.

6. Miscellaneous. (a) For purposes of notices provided pursuant to Section 2 hereof, notices sent by registered or certified mail will be deemed received two days after mailing. Notices sent by courier shall be deemed received the date of delivery.

(b) The headings of the sections hereof are inserted for convenience only and shall not be deemed a part of this Agreement.

If any one or more of the covenants or agreements provided in this Agreement to be performed should be determined to be invalid or contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements

herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as an original but all such counterparts shall constitute and be but one and the same instrument.

IN WITNESS WHEREOF each Project Participant has executed this Agreement with the approval of its governing body, and caused its official seal to be affixed and NCPA has executed this Agreement in accordance with the authorization of its Commission.

NORTHERN CALIFORNIA POWER
AGENCY
BY _____
AND _____
[SEAL]

CITY OF LOMPOC
BY _____
AND _____
[SEAL]

CITY OF ALAMEDA
BY _____
AND _____
[SEAL]

CITY OF PALO ALTO
BY _____
AND _____
[SEAL]

CITY OF BIGGS
BY _____
AND _____
[SEAL]

CITY OF ROSEVILLE
BY _____
AND _____
[SEAL]

CITY OF GRIDLEY
BY _____
AND _____
[SEAL]

CITY OF SANTA CLARA
BY _____
AND _____
[SEAL]

CITY OF HEALDSBURG
BY _____
AND _____
[SEAL]

CITY OF UKIAH
BY _____
AND _____
[SEAL]

CITY OF LODI
BY _____
AND _____
[SEAL]

PLUMAS-SIERRA RURAL
ELECTRIC COOPERATIVE
BY _____
AND _____
[SEAL]

AGREEMENT FOR TRANSFER OF RIGHTS TO CAPACITY AND ENERGY
OF THE NORTH FORK STANISLAUS RIVER HYDROELECTRIC
DEVELOPMENT PROJECT

Dated as of February 1, 1985

City of Redding

and

City of Alameda
City of Healdsburg
City of Roseville
City of Santa Clara

AGREEMENT FOR TRANSFER OF RIGHTS TO CAPACITY AND ENERGY
OF THE NORTH FORK STANISLAUS RIVER HYDROELECTRIC
DEVELOPMENT PROJECT

This Agreement, dated as of February 1, 1985, by and among the City of Redding and the Purchasing Participants (capitalized terms used herein shall have the meanings given such terms in Section 1 hereof),

WITNESSETH:

WHEREAS, the City of Redding and each of the Purchasing Participants have entered into the Third Phase Agreement with NCPA pursuant to which NCPA has agreed to provide, and the City of Redding and each of the Purchasing Participants have agreed to take or cause to be taken, their respective Project Entitlement Percentages of the capacity and energy of the Project; and

WHEREAS, Section 9(c) of the Third Phase Agreement authorizes the City of Redding, as a Project Participant, subject to the terms and conditions thereof, to transfer, assign, sell or exchange all or a portion of the Project capacity and energy to which it is entitled to the Purchasing Participants and provides that the Purchasing Participants shall be entitled to the Project capacity and energy to the extent the same is so transferred, assigned, exchanged, or sold; and

WHEREAS, the City of Redding has determined to transfer assign and sell all of its Project Entitlement Percentage of the capacity and energy of the Project to the Purchasing Participants in accordance with Section 9(c) of the Third Phase Agreement on the terms and conditions herein contained; and

WHEREAS, no Bonds have been issued to finance the cost of the Project; and

WHEREAS, all the other conditions to the transfer, sale and assignment of the City of Redding's Project Entitlement Percentage of the Project capacity and energy have been satisfied or will be satisfied on the effective date of such transfer, sale and assignment provided for herein; and

WHEREAS, Section 9(c) of the Third Phase Agreement further provides that the Project Entitlement Percentage of the Project Participant so transferring, assigning, exchanging or selling all or a portion of its Project Entitlement Percentage shall be decreased and the obligations of such Project Participant under the Third Phase Agreement shall be discharged to the extent Project capacity and energy is transferred, assigned, exchanged or sold except for obligations incurred by NCPA prior to the date of such transfer, assignment, exchange or sale;

NOW THEREFORE, the parties hereto do agree as follows:

1. **Definitions.** Terms used herein which are defined in the Third Phase Agreement shall have the same meanings herein as are given such terms in the Third Phase Agreement. In addition, the following terms shall, for all purposes of this Agreement, have the following meanings:

"Purchased Project Entitlement Percentage" means, with respect to each Purchasing Participant, such Purchasing Participant's share of the City of Redding's Project Entitlement Percentage of the capacity and energy of the Project identified in Section 2 hereof, as being the portion of the City of Redding's Project Entitlement Percentage purchased by such Purchasing Participant.

"Purchasing Participant" means each of the City of Alameda, the City of Healdsburg, the City of Roseville, and the City of Santa Clara.

"Third Phase Agreement" means the Agreement for Construction, Operation and Financing of the North Forth Stanislaus River Hydroelectric Development Project, dated as of September 1, 1982, by and among NCPA and the Project Participants as the same has been and may be amended or supplemented from time to time in accordance with its terms.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, agencies and corporations.

2. **Transfer of Purchased Project Entitlement Percentages.** The City of Redding hereby transfers, sells, and assigns to each of the Purchasing Participants, and each of the Purchasing Participants hereby accepts and agrees to take or cause to be taken, in accordance with the terms and conditions of the Third Phase Agreement the Purchased Project Entitlement Percentage of the Project capacity and energy to which the City of Redding is entitled pursuant to the Third Phase Agreement indicated below:

<u>Purchasing Participant</u>	<u>Purchased Project Entitlement Percentage</u>
City of Alameda	2.61%
City of Healdsburg	0.15%
City of Roseville	5.14%
City of Santa Clara	<u>2.14%</u>
Aggregate Purchased Project Entitlement Percentages	10.04%

3. **Liability for Future Obligations under the Third Phase Agreement.** Each of the parties hereto acknowledges and agrees that, upon the effectiveness of this Agreement, except as set forth in Section 4 below, the obligations of the City of Redding under the Third Phase Agreement with respect to the Purchased Project Entitlement Percentages shall be discharged and each of the Purchasing Participants shall be solely responsible thereunder for all obligations related to its respective Purchased Project Entitlement Percentage. Accordingly, except as set forth in Section 4 below, each of the Purchasing Participants hereby agrees that the City of Redding shall not be liable for any obligations under the Third Phase Agreement with respect to its Purchased Project Entitlement Percentage from the effectiveness of this Agreement and from such time each of the Purchasing Participants hereby expressly assumes the obligations undertaken by the City of Redding under the Third Phase Agreement with respect to the Purchased Project Entitlement Percentage of such Purchasing Participant.

Each of the Purchasing Participants agrees to indemnify and hold the City of Redding harmless for any costs to the City of Redding under the Third Phase Agreement in connection with such Purchasing Participant's Purchased Project Entitlement Percentage incurred after the effectiveness of this Agreement.

4. **Liability for Prior Obligations under the Third Phase Agreement.** Each of the Purchasing Participants hereby expressly disclaims, and the City of Redding agrees and acknowledges that no Purchasing Participant shall bear, any responsibility for or in connection with any obligation of the City of Redding under the Third Phase Agreement incurred prior to the effectiveness of this Agreement including, without limitation, any obligation relating to an

obligation of NCPA incurred in connection with the Project prior to such effectiveness.

5. Reimbursement of Prior Advances. Notwithstanding the transfer, sale and assignment of the Purchased Project Entitlement Percentages pursuant hereto, the parties agree that the City of Redding continues to be entitled to all amounts due under Section 16 of the Third Phase Agreement with respect to moneys advanced by the city of Redding with respect to the Project, all on the terms and conditions, and subject to the limitations, contained in the Third Phase Agreement. No Purchasing Participant shall be entitled to any interest in such funds pursuant to this Agreement nor shall any Project Participant incur any liability to the City of Redding with respect to such funds hereunder.

The parties hereto recognize that NCPA has, prior to the date of this Agreement, made assessments against the City of Redding in connection with the Project, certain of which have not been paid. The parties agree that nothing contained in this Agreement shall be construed as obligating either the City of Redding or any Purchasing Participant to pay any such assessment; provided, however, that in the event any party does pay such unpaid assessments, in whole or in part, such paying party shall be entitled to any reimbursement of such payments made by NCPA pursuant to Section 16 of the Third Phase Agreement anything contained above in this Section 5 to the contrary notwithstanding.

6. Amendment of Appendix A to the Third Phase Agreement. Section 9(c) of the Third Phase Agreement provides for an amendment to Appendix A thereto to reflect any transfer, assignment, sale or exchange of Project capacity and energy thereunder. Each of the Purchasing Participants and the City of Redding hereby agrees to cooperate in amending Appendix A to the Third Phase Agreement to reflect the increased Project Entitlement Percentage of each of the Purchasing Participants as a result of acquiring the Purchased Project Entitlement Percentages hereunder and to reflect the decrease in the City of Redding's Project Entitlement Percentage to zero.

7. Effective Date. This Agreement shall become effective for all purposes upon the happening of all of the following: (i) the execution and delivery hereof by the City of Redding and each of the Purchasing Participants; (ii) the approval of NCPA; and (iii) the approval of each Project Participant unless NCPA determines, after consultation with its consulting engineer, that such approval should not be required.

8. Termination. This Agreement shall not be subject to termination by any party under any circumstances, whether based upon the default of any other party under this Agreement, or any other instrument, or otherwise.

9. **Miscellaneous.** The headings of the sections hereof are inserted for convenience only and shall not be deemed a part of this Agreement.

If any one or more of the covenants or agreements provided in this Agreement to be performed should be determined to be invalid or contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as an original but all such counterparts shall constitute and be but one and the same instrument.

IN WITNESS WHEREOF, the City of Redding and each Purchasing Participant has executed this Agreement by its duly authorized officers, and caused its official seal to be affixed hereto as of the date first above written.

CITY OF ALAMEDA

CITY OF ROSEVILLE

By _____
And _____

By _____
By _____

[SEAL]

[SEAL]

CITY OF HEALDSBURG

CITY OF SANTA CLARA

By _____
And _____

By _____
By _____

[SEAL]

[SEAL]

CITY OF REDDING

By _____
And _____

[SEAL]

CITY COUNCIL

JOHN R. (Randy) SNIDER, Mayor
DAVID M. HINCHMAN
Mayor Pro Tempore
EVELYN M. OLSON
JAMES W. PINKERTON, Jr.
FRED M. REID

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
POST OFFICE BOX 320
LODI, CALIFORNIA 95241
(209) 334-5634

HENRY A. GLAVES, Jr.
City Manager

ALICE M. REIMCHE
City Clerk

RONALD M. STEIN
City Attorney

March 12, 1985

*Open Shuts
3/16/85*

To: Gail Sipple
NCPA
180 Cirby Way
Roseville, CA 95678

Subject: Transfer and Sales Agreement regarding the Calaveras
Project

Enclosed herewith please find executed copies of the above
referenced Agreement which was approved by the Lodi City Council at
its March 6, 1985 Regular Meeting, together with a certified copy
of the authorizing Resolution No. 85-39.

Very truly yours,

Alice M. Reimche
Alice M. Reimche
City Clerk

AMR:jj

RESOLUTION NO. 85-39

RESOLUTION APPROVING THE AGREEMENT FOR SALE OF SURPLUS
CAPACITY AND ENERGY OF THE NORTH FORK STANISLAUS RIVER
HYDROELECTRIC DEVELOPMENT PROJECT

WHEREAS, NCPA and each of the Project Participants have entered into the Third Phase Agreement pursuant to which NCPA has agreed to provide, and each of the Project Participants has agreed to take or cause to be taken, their respective Project Entitlement Percentages of the capacity and energy of the Project; and

WHEREAS, the City of Redding has determined not to participate in the Project; and

WHEREAS, in order to finance the cost of the Project, it is necessary that the aggregate of the Project Entitlement Percentages of all Project Participants willing to participate in the Project equal 100%; and

WHEREAS, in order to permit the financing to proceed, the Purchasing Participants have agreed to take, or cause to be taken, the City of Redding's Project Entitlement Percentage and to that end, each will enter into the Transfer Agreement; and

WHEREAS, Sections 9 and 10 of the Third Phase Agreement authorize each Project Participant, subject to the terms and conditions thereof, to transfer, assign, sell or exchange all or a portion of the surplus Project capacity and energy to which it is entitled; and

WHEREAS, Section 10 of the Third Phase Agreement provides certain terms and conditions to the sale by NCPA of surplus Project capacity and energy; and

WHEREAS, as an inducement to the Purchasing Participants to enter into the Transfer Agreement and to take, or cause to be taken, the Purchased Project Entitlement Percentages, the other Project Participants have determined that, notwithstanding their rights to sell surplus Project capacity and energy under the Third Phase Agreement, to permit any such transfer or sale under a Long Term Power Purchase Contract to be deemed a transfer or sale of the Purchased Project Entitlement Percentages, all on the terms and conditions contained in the Agreement for Sale of Surplus Capacity and Energy of the North Fork Stanislaus River Hydroelectric Development Project (the "Sale Agreement");

WHEREAS, there has been proposed and submitted to this meeting a form of the Sale Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi, as follows:

Section 1. The City Council hereby finds and determines that the terms and conditions of the Sale Agreement in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein be, and the same is hereby, approved.

Section 2. The City is hereby authorized to enter into the Sale Agreement and the Mayor and the City Clerk are hereby authorized to execute and deliver the Sale Agreement by and on behalf of the City with such changes, insertions and omissions as may be approved by the City Council, said execution being conclusive evidence of such approval.

Section 3. The Mayor and City Clerk, and any other proper officer of the City, acting singly, be and each of them hereby is authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by the Sale Agreement and by this resolution.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LODI, this 6th day of March, 1985, by the following vote:

Ayes: Council Members - Pinkerton, Hinchman, Olson,
Reid, and Snider (Mayor)

Noes: Council Members - None

Absent: Council Members - None

Attest:

Alice M. Reimche
Alice M. Reimche
City Clerk

AGREEMENT FOR SALE OF SURPLUS CAPACITY AND ENERGY
OF THE NORTH FORK STANISLAUS RIVER HYDROELECTRIC
DEVELOPMENT PROJECT

Dated as of February 1, 1985

By and Among

NORTHERN CALIFORNIA POWER AGENCY

and

City of Alameda
City of Biggs
City of Gridley
City of Healdsburg
City of Lodi
City of Lompoc
City of Palo Alto
City of Roseville
City of Santa Clara
City of Ukiah
Plumas-Sierra Rural Electric Cooperative

AGREEMENT FOR SALE OF SURPLUS CAPACITY AND ENERGY
OF THE NORTH FORK STANISLAUS RIVER HYDROELECTRIC
DEVELOPMENT PROJECT

This Agreement, dated as of February 1, 19. by and among Northern California Power Agency, a joint powers agency of the State of California and the Project Participants (capitalized terms used herein shall have the meanings given such terms in Section 1 hereof),

WITNESSETH:

WHEREAS, NCPA and each of the Project Participants have entered into the Third Phase Agreement pursuant to which NCPA has agreed to provide, and each of the Project Participants has agreed to take or cause to be taken, their respective Project Entitlement Percentages of the capacity and energy of the Project; and

WHEREAS, the City of Redding has determined not to participate in the Project; and

WHEREAS, in order to finance the cost of the Project, it is necessary that the aggregate of the Project Entitlement Percentages of all Project Participants willing to participate in the Project equal 100%; and

WHEREAS, in order to permit the financing to proceed, the Purchasing Participants have agreed to take, or cause to be taken, the City of Redding's Project Entitlement Percentage and to that end, each will enter into the Transfer Agreement; and

WHEREAS, Sections 9 and 10 of the Third Phase Agreement authorize each Project Participant, subject to the terms and conditions thereof, to transfer, assign, sell or exchange all or a portion of the surplus Project capacity and energy to which it is entitled; and

WHEREAS, Section 10 of the Third Phase Agreement provides certain terms and conditions to the sale by NCPA of surplus Project capacity and energy; and

WHEREAS, as an inducement to the Purchasing Participants to enter into the Transfer Agreement and to take, or cause to be taken, the Purchased Project Entitlement Percentages, the other Project Participants have determined that, notwithstanding their rights to sell surplus Project capacity and energy under the Third Phase Agreement, to permit any such transfer or sale under a Long Term Power Purchase Contract to be deemed a transfer or sale of the Purchased Project Entitlement Percentages, all on the terms and conditions herein contained;

NOW THEREFORE, the parties hereto do agree as follows:

1. Definitions. Terms used herein which are defined in the Third Phase Agreement shall have the same meanings herein as are

given such terms in the Third Phase Agreement. In addition, the following terms shall, for all purposes of this Agreement, have the following meanings:

"Long Term Power Purchase Contract" means any agreement by a Project Participant, other than the Transfer Agreement, for the sale or transfer of Project capacity and energy to any person, including another Project Participant, which has a term in excess of one year; provided, however, that any such agreement which is subject to termination at the option of either party shall be considered to have a term extending to the first date such option may be exercised.

"Purchased Project Entitlement Percentage" means, with respect to each Purchasing Participant, such Purchasing Participant's share of the City of Redding's Project Entitlement Percentage of the capacity and energy of the Project identified in Section 2 of the Transfer Agreement.

"Purchasing Participant" means each of the City of Alameda, the City of Healdsburg, the City of Roseville, and the City of Santa Clara.

"Third Phase Agreement" means the Agreement for Construction, Operation and Financing of the North Fork Stanislaus River Hydroelectric Development Project, dated as of September 1, 1982, by and among NCPA and the Project Participants as the same has been and may be amended or supplemented from time to time in accordance with its terms.

"Transfer Agreement" means the Agreement for Transfer of Rights to Capacity and Energy of the North Fork Stanislaus River Hydroelectric Development Project, dated as of February 1, 1985, by and among the City of Redding and the Purchasing Participants as the same may be amended or supplemented from time to time in accordance with its terms.

Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, agencies and corporations.

2. Sale of Project energy and capacity under Long Term Power Purchase Contracts. (a) As an inducement to each Purchasing Participant to take or cause to be taken its respective Purchased Project Entitlement Percentage, each Project Participant agrees that each sale or transfer of Project capacity and energy under a Long Term Power Purchase Contract shall for all purposes be deemed a transfer or sale of the Purchased Project Entitlement Percentage of Project capacity and energy by the Purchasing Participants in the

proportion that such Purchasing Participant's Purchased Project Entitlement Percentage bears to the total of all Purchased Project Entitlement Percentages under the Transfer Agreement; provided, however, that any Purchasing Participant may, by notice in writing delivered to NCPA, elect not to have such transfer or sale treated as a transfer or sale of its Purchased Project Entitlement Percentage.

(b) Within five days of entering into a Long Term Power Purchase Contract, any Project Participant who enters into a Long Term Power Purchase Contract, shall provide a copy of such Contract to NCPA and to each of the Purchasing Participants. The Purchasing Participants shall have seven days from receipt of such Contract to provide notice to NCPA to elect not to have such transfer or sale treated as a transfer or sale of its Purchased Project Entitlement Percentage.

(c) The provisions of subsection (a) of this Section 2 shall apply to each sale or transfer of Project capacity and energy under a Long Term Power Purchase Contract until the aggregate of the Project capacity and energy which has been or, but for an election made by a Purchasing Participant pursuant to subsection (a) of this Section 2, would have been treated as a transfer or sale of the Purchased Project Entitlement Percentages equals 10.04%.

3. Approval of Transfer Agreement. NCPA and each Project Participant hereby approves the Transfer Agreement and the transfer, sale and assignment of the Purchased Project Entitlement Percentages by the City of Redding to the Purchasing Participants thereunder and agrees to such transfer, sale and assignment.

4. Effective Date. This Agreement shall become effective for all purposes upon the execution hereof by NCPA and each of the Project Participants.

5. Termination. This Agreement shall not be subject to termination by any party under any circumstances, whether based upon the default of any other party under this Agreement, or any other instrument, or otherwise.

6. Miscellaneous. (a) For purposes of notices provided pursuant to Section 2 hereof, notices sent by registered or certified mail will be deemed received two days after mailing. Notices sent by courier shall be deemed received the date of delivery.

(b) The headings of the sections hereof are inserted for convenience only and shall not be deemed a part of this Agreement.

If any one or more of the covenants or agreements provided in this Agreement to be performed should be determined to be invalid or contrary to law, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements

herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as an original but all such counterparts shall constitute and be but one and the same instrument.

IN WITNESS WHEREOF each Project Participant has executed this Agreement with the approval of its governing body, and caused its official seal to be affixed and NCPA has executed this Agreement in accordance with the authorization of its Commission.

NORTHERN CALIFORNIA POWER
AGENCY
BY _____
AND _____
[SEAL]

CITY OF LOMPOC
BY _____
AND _____
[SEAL]

CITY OF ALAMEDA
BY _____
AND _____
[SEAL]

CITY OF PALO ALTO
BY _____
AND _____
[SEAL]

CITY OF BIGGS
BY _____
AND _____
[SEAL]

CITY OF ROSEVILLE
BY _____
AND _____
[SEAL]

CITY OF GRIDLEY
BY _____
AND _____
[SEAL]

CITY OF SANTA CLARA
BY _____
AND _____
[SEAL]

CITY OF HEALDSBURG
BY _____
AND _____
[SEAL]

CITY OF UKIAH
BY _____
AND _____
[SEAL]

CITY OF LODI
BY John R. Snider
AND Wm. W. Bunch Mayor
[SEAL] City Clerk

PLUMAS-SIERRA RURAL
ELECTRIC COOPERATIVE
BY _____
AND _____
[SEAL]

Resolution No. _____

RESOLUTION APPROVING THE AGREEMENT FOR SALE OF
SURPLUS CAPACITY AND ENERGY OF THE NORTH FORK
STANISLAUS RIVER HYDROELECTRIC DEVELOPMENT
PROJECT

WHEREAS, NCPA and each of the Project Participants have entered into the Third Phase Agreement pursuant to which NCPA has agreed to provide, and each of the Project Participants has agreed to take or cause to be taken, their respective Project Entitlement Percentages of the capacity and energy of the Project; and

WHEREAS, the City of Redding has determined not to participate in the Project; and

WHEREAS, in order to finance the cost of the Project, it is necessary that the aggregate of the Project Entitlement Percentages of all Project Participants willing to participate in the Project equal 100%; and

WHEREAS, in order to permit the financing to proceed, the Purchasing Participants have agreed to take, or cause to be taken, the City of Redding's Project Entitlement Percentage and to that end, each will enter into the Transfer Agreement; and

WHEREAS, Sections 9 and 10 of the Third Phase Agreement authorize each Project Participant, subject to the terms and conditions thereof, to transfer, assign, sell or exchange all or a portion of the surplus Project capacity and energy to which it is entitled; and

WHEREAS, Section 10 of the Third Phase Agreement provides certain terms and conditions to the sale by NCPA of surplus Project capacity and energy; and

WHEREAS, as an inducement to the Purchasing Participants to enter into the Transfer Agreement and to take, or cause to be taken, the Purchased Project Entitlement Percentages, the other Project Participants have determined that, notwithstanding their rights to sell surplus Project capacity and energy under the Third Phase Agreement, to permit any such transfer or sale under a Long Term Power Purchase Contract to be deemed a transfer or sale of the Purchased Project Entitlement Percentages, all on the terms and conditions contained in the Agreement for Sale of Surplus Capacity and Energy of the North Fork Stanislaus River Hydroelectric Development Project (the "Sale Agreement");

WHEREAS, there has been proposed and submitted to this meeting a form of the Sale Agreement.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of _____, as follows:

Section 1. The City Council hereby finds and determines that the terms and conditions of the Sale Agreement in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein be, and the same is hereby, approved.

Section 2. The City is hereby authorized to enter into the Sale Agreement and the _____ and the _____ are hereby authorized to execute and deliver the Sale Agreement by and on behalf of the City with such changes, insertions and omissions as may be approved by _____, said execution being conclusive evidence of such approval.

Section 3. The _____ and _____, and any other proper officer of the City, acting singly, be and each of them hereby is authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by the Sale Agreement and by this resolution.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF _____, this ____ day of _____, 1985, by the following vote:

AYES:

COUNCILMEN:

NOES:

COUNCILMEN:

ABSENT:

COUNCILMEN:

ATTEST: _____
City Clerk
City of _____