

RESOLUTION NO. 89-32

RESOLUTION APPROVING AND AUTHORIZING
EXECUTION OF AMENDMENT NO. 2 TO
PROJECT AGREEMENT NO. 2 FOR THE
CALIFORNIA-OREGON TRANSMISSION PROJECT

WHEREAS, the City of Lodi (the "City") has entered into the September 30, 1985, "Transmission Agency of Northern California Project Agreement No. 2 for the California-Oregon Transmission Project" (the "Agreement") with the Transmission Agency of Northern California ("TANC") and the other members of TANC; and

WHEREAS, this City and the other parties to the Agreement have amended the Agreement as provided in the July 1, 1988, "Transmission Agency of Northern California Project Agreement No. 2 for the California-Oregon Transmission Project Amendment No. 1"; and

WHEREAS, this City and the other parties to the Agreement desire to amend the Agreement, as in effect as of the date hereof, as provided in the March 1, 1989, "Transmission Agency of Northern California Project Agreement No. 2 for the California-Oregon Transmission Project Amendment No. 2" (the "Project Agreement Amendment");

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LODI as follows:

Section 1. The Project Agreement Amendment, 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. The Mayor is hereby authorized and

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Dated: March 22, 1989

I hereby certify that Resolution No. 89-32 was passed and adopted by the City Council of the City of Lodi in an adjourned regular meeting held March 22, 1989 by the following vote:

Ayes: Council Members - Hinchman, Olson, Reid and Snider

Noes: Council Members - Pinkerton (Mayor)

Absent: Council Members - None


Alice M. Reimche
City Clerk

Draft 3/06/89

TRANSMISSION AGENCY OF
NORTHERN CALIFORNIA
PROJECT AGREEMENT NO. 2
FOR THE
CALIFORNIA-OREGON TRANSMISSION PROJECT
AMENDMENT NO. 2

0800c5

Draft 3/06/89

TRANSMISSION AGENCY OF NORTHERN CALIFORNIA
PROJECT AGREEMENT NO. 2
FOR THE
CALIFORNIA-OREGON TRANSMISSION PROJECT
AMENDMENT NO. 2

AMONG
THE TRANSMISSION AGENCY OF NORTHERN CALIFORNIA
THE CITY OF ALAMEDA
THE CITY OF BIGGS
THE CITY OF GRIDLEY
THE CITY OF HEALDSBURG
THE CITY OF LODI
THE CITY OF LOMPOC
THE MODESTO IRRIGATION DISTRICT
THE CITY OF PALO ALTO
THE PLUMAS-SIERRA RURAL ELECTRIC COOPERATIVE
THE CITY OF REDDING
THE CITY OF ROSEVILLE
THE SACRAMENTO MUNICIPAL UTILITY DISTRICT
THE CITY OF SANTA CLARA
THE TURLOCK IRRIGATION DISTRICT
THE CITY OF UKIAH

0300c5

PREAMBLE

This Amendment No. 2 is made and entered into as of March 1, 1989, by and among the Transmission Agency of Northern California; the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah; the Sacramento Municipal Utility District; the Modesto Irrigation District; the Turlock Irrigation District; and the Plumas-Sierra Rural Electric Cooperative, for the purpose of amending the September 30, 1985, "Transmission Agency of Northern California Project Agreement No. 2 for the California-Oregon Transmission Project" among the same parties (hereinafter referred to as "Project Agreement No. 2"), as amended and supplemented to the date hereof.

RECITALS

WHEREAS:

A. On December 10, 1984, TANC (capitalized terms used herein and not otherwise defined shall have the meanings given such terms pursuant to Section 1 hereof) was duly established as a joint powers agency, pursuant to Section 6500 et seq. of the California Government Code, by an agreement among the Members entitled "Joint Powers Agreement, Transmission Agency of Northern California"; and

B. TANC, in its own name, or for the benefit of its Members, has the power to acquire by purchase, or eminent domain, construct, finance, operate and maintain facilities for electric power transmission including, without limitation, the power to purchase, lease, operate, develop, contract for, or own, new or upgraded transmission lines, and facilities for the benefit of the Members; and

C. Each Member of TANC owns and operates a system for the distribution of electric power and energy, and is authorized to obtain transmission facilities or rights to transmission transfer capability for its present or future requirements, through contracts with TANC or otherwise; and

D. TANC, on behalf of its Members, executed the December 19, 1984, "Memorandum of Understanding, California-Oregon Transmission Project," among certain California entities and the Western Area Power Administration,

which sets forth principles for the development of the California-Oregon Transmission Project including the designation of TANC as Project Manager; and

E. The Members of TANC entered into the June 19, 1985, "Project Agreement" for the purposes of issuing and selling a promissory note for financing studies and other preliminary costs to be incurred prior to making a decision, after environmental and other review, of whether to undertake construction of the California-Oregon Transmission Project; and

F. The Members of TANC entered into the September 30, 1985, "Transmission Agency of Northern California Project Agreement No. 2 for the California-Oregon Transmission Project" for the purpose of refinancing the promissory note and to finance certain feasibility and planning studies, and to provide for TANC's share of the costs for Project Development Work for the California-Oregon Transmission Project; and

G. TANC, on behalf of its Members, executed the September 30, 1985, "California-Oregon Transmission Project Development Agreement" for the purpose of completing required activities such as obtaining approvals, certificates, licenses and permits as required by law and regulation before undertaking construction of the Project; and

H. TANC, on behalf of its Members, entered into the Memorandum of Understanding Annex dated February 6, 1986, with the initial Participants and additional non-federal public entities which allocated a 3.125 percent Project entitlement among the additional Participants and re-allocated the remaining entitlement among the initial Participants; and

I. On January 20, 1988, TANC certified the Final Environmental Impact Report for the California-Oregon Transmission Project, the Los Banos-Gates Transmission Project, and the Pacific Northwest Reinforcement Project, made findings pursuant to the California Environmental Quality Act, and approved the California-Oregon Transmission Project; and

J. Each Member has participated in the preparation and review of the Draft Environmental Impact Report and has reviewed and approved the Final Environmental Impact Report for the California-Oregon Transmission Project and adopted the findings made by TANC as lead agency for the California-Oregon Transmission Project; and

K. The Members of TANC have approved the California-Oregon Transmission Project for the purposes of the California Environmental Quality Act and desire to authorize

TANC to undertake additional work in the California-Oregon Transmission Project beyond planning and feasibility studies; and

L. The Members of TANC have entered into the July 1, 1988, "Transmission Agency of Northern California Project Agreement No. 2 for the California-Oregon Transmission Project Amendment No. 1" ("Amendment No. 1"), for the purpose of permitting the application of Phase I Indebtedness to the cost of Acquisition and Construction Work; and

M. The Cities of Biggs and Gridley have determined not to proceed with the California-Oregon Transmission Project and do not desire to retain their respective rights and interests under the Agreement; and

N. The Members of TANC, other than the Cities of Biggs and Gridley, have determined to enter into this Amendment No. 2 to Project Agreement No. 2 for the purpose of refinancing TANC's outstanding \$26,800,000 principal amount of Revenue Anticipation Notes, Series 1985 and to provide for the costs of additional Acquisition and Construction Work for the California-Oregon Transmission Project.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth in this Amendment No. 2, TANC and the Members agree as follows:

1. Except as otherwise provided herein, all capitalized terms used in this Amendment No. 2 shall have the same meanings herein as set forth in the Agreement, as amended and supplemented to the date hereof.

2. Section 2.3 of Project Agreement No. 2, as amended by Section 4 of Amendment No. 1, is further amended to read as follows:

"2.3 Participation - Pursuant to Paragraph 15 of the Joint Powers Agreement, the Members executing this Agreement have each elected to participate in Phase I in the Participation Percentages set forth in Appendix C, as Appendix C may be amended, and to participate in Phase II in the Participation Percentages set forth in Appendix C-1 to the extent of amounts available from Phase I Indebtedness; provided, however, that such election to participate in Phase II shall not constitute an election to take a Participation Percentage in Phase II and Phase III of the

Project for purposes of Section 5.1, except to the extent of amounts available from the Phase I Indebtedness."

3. Section 6 of Amendment No. 1 is hereby deleted to the end that Section 3.2.5 of Project Agreement No. 2 shall apply to Phase II to the extent of the Phase I Indebtedness authorized herein.

4. Section 4.1.5.1 of Project Agreement No. 2 is amended to read as follows:

"4.1.5.1 Notwithstanding Section 4.1.4, each Financing Member requests that TANC issue and sell its revenue bonds, notes or other evidences of indebtedness (collectively called "Phase I Indebtedness") 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, or other applicable provisions of law, in an aggregate principal amount at any time outstanding not exceeding \$50,000,000 (the date of the initial issuance of such Phase I Indebtedness after March 1, 1989, as determined and announced by written notice to all Members by TANC, is the "Phase I Closing Date") to finance and refinance Phase I and Phase II activities described in Section 4.1.6, plus the estimated costs of issuance and sale of the Phase I Indebtedness."

5. Section 4.1.5.2 of Project Agreement No. 2 is amended to read as follows:

"4.1.5.2 Each Financing Member severally agrees: (i) to pay to TANC an amount equal to its "Financing Participation Percentage" (defined in Section 4.1.5.3 below) of all payments of principal, interest and redemption premiums, if any, on the Phase I Indebtedness (provided that such payments shall not include any accelerated payments on account of any acceleration of principal thereof) at the times and in the manner set forth in TANC's resolutions and the Indentures authorizing the issuance and sale of the Phase I Indebtedness; and (ii) not to take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on any Phase I Indebtedness for federal income tax purposes."

6. Section 4.1.6.2 of Project Agreement No. 2 is amended to read as follows:

"4.1.6.2 Payment of principal and interest on the \$26,800,000 TANC Revenue Anticipation Notes, Series 1985 and any other Phase I Indebtedness that may be outstanding from time to time."

7. Section 4.1.9 of Project Agreement No. 2, as added by Section 9 of Amendment No. 1, is amended to read as follows:

"4.1.9 Phase I Indebtedness, as defined in Section 4.1.5.1, shall be limited to a principal amount outstanding at any time of not to exceed \$60,000,000."

8. Section 4.1.5.12 of Project Agreement No. 2 is hereby deleted.

9. Section 5.1 of Project Agreement No. 2 is amended to read as follows:

"5.1 Entitlement and Election. Upon the payment of all Phase I Indebtedness, or provision for such payment being made in accordance with the applicable Indenture, or at such other time as may be determined under procedures established by the TANC Commission, each Member not then in default shall be entitled to elect to take its Participation Percentage as set forth in Appendix C-1 in Phase II (beyond the participation in Phase II specified in Section 2.3 of this Agreement) and Phase III in any subsequent TANC "project agreement," as that term is defined in the Joint Powers Agreement. The TANC Commission shall establish procedures for the Members to elect to so participate or not participate in Phase II (beyond the participation in Phase II specified in Section 2.3 of this Agreement) and Phase III, and shall give notice to each Member of the date on which and the means by which such election may be made. Except as provided in Section 2.3 of this Agreement, any Member may elect not to participate in Phases II and III of the Project."

10. Section 5.1.1 of Project Agreement No. 2 is amended to read as follows:

"5.1.1 A Member who elects not to participate in Phase II beyond the participation specified in Section 2.3 of this Agreement and Phase III shall give written notice of such election to TANC and to each Member on or before the date for such election in accordance with the procedures established by the TANC Commission."

11. Section 5.1.1.1 of Project Agreement No. 2 is amended to read as follows:

"5.1.1.1 By electing not to participate in Phase II beyond the participation specified in Section 2.3 of this Agreement and Phase III, a Member shall relinquish and waive any right or entitlement to further participate in Phase II and Phase III of the Project."

12. The first sentence of Section 5.1.1.2 of Project Agreement No. 2 is amended to read as follows:

"5.1.1.2 By electing not to participate in Phase II beyond the participation specified in Section 2.3 of this Agreement and Phase III, a Member not then in default shall be entitled to receive a refund of any advances such Member may have paid to TANC for TANC Project Costs prior to the election, and either the amount actually paid by such Member on the Phase I Closing Date pursuant to Section 4.1.3, or the amount paid by such Member to discharge such Member's Financing Participation Percentage of any outstanding Phase I Indebtedness on the condition that TANC executes, and performance commences under, the Participation Agreement."

13. Section 6.4 of Project Agreement No. 2 is amended to read as follows:

"6.4 Withdrawal - Notwithstanding the provisions of Section 13 of this Agreement, each Member agrees that it will not take any action which will lead to its withdrawal as a Member or other termination of its membership in TANC while Phase I Indebtedness is

outstanding and that it will not vote for or otherwise participate in any action to dissolve or otherwise terminate the existence of TANC during the term of any Phase I Indebtedness."

14. Section 14.1 of Project Agreement No. 2 is amended to read as follows:

"14.1 No Assignment While Phase I Indebtedness Outstanding - This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Agreement; provided, however, that, except as provided in Section 4.1.5.11 of this Agreement, neither this Agreement nor any right or interest herein shall be transferred or assigned by any party hereto so long as any Phase I Indebtedness is outstanding or until adequate provision for the payment thereof has been made in accordance with the provisions of the applicable Indenture."

15. Section 17 of Project Agreement No. 2 is amended to read as follows:

"17. APPENDICES

This Agreement includes Appendices A, B, C and C-1 attached hereto and incorporated herein by this reference. Such appendices may be modified from time to time to the extent authorized by this Agreement."

16. Section 21 is hereby added to Project Agreement No. 2 to read as follows:

"21 WITHDRAWAL OF THE CITIES OF BIGGS AND GRIDLEY

21.1 The City of Biggs and the City of Gridley each: (i) relinquishes all of its respective rights and interests under the Agreement; and (ii) elects, pursuant to Section 15 of the Joint Powers Agreement, not to participate further in the Project or any Project Agreement (as defined in the Joint Powers Agreement) relating thereto; provided, however, that nothing contained in this Agreement, including without limitation this

Section 21 or Appendix C-1, shall relieve, or be construed as relieving, either the City of Biggs or the City of Gridley of any obligations to make payments with respect to TANC's outstanding Revenue Anticipation Notes, Series 1985 pursuant to the Agreement as in effect on the date of issuance thereof.

21.2 This Section 21 shall satisfy all notice requirements with respect to the withdrawal of the Cities of Biggs and Gridley from the Project under the Agreement. The Cities of Biggs and Gridley each recognize and agree that no amounts are due such respective Cities pursuant to the Agreement as a result of, or in connection with, such withdrawal.

21.3 Upon the payment of TANC's Revenue Anticipation Notes, Series 1985, or provision for such payment being made in accordance with the applicable Indenture, neither the City of Biggs nor the City of Gridley shall be considered a Member for purposes of this Agreement and shall have no further rights or obligations under this Agreement, including, without limitation: (i) the right or obligation to consent to, or approve, any amendment, supplement, or extension of this Agreement; or (ii) the obligation to make any payments under this Agreement, including any payments with respect to Phase I Indebtedness issued on or after the Phase I Closing Date."

17. Section 22 is hereby added to Project Agreement No. 2 to read as follows:

"22 DISTRIBUTION OF ASSETS

22.1 Notwithstanding anything to the contrary contained in Section 21 of the Joint Powers Agreement, but subject in all events to the provisions of the Intertie Agreements:

22.1.1 Except as otherwise provided in Section 22.1.3, in the event TANC terminates its participation in the Project and other Participants determine to pursue the Project, TANC may transfer any assets acquired in connection with the Project as Project Manager, and all of its right, title and

interest therein as a Participant, whether real or personal property, but only upon payment, or provision for payment satisfactory to TANC, of the amount paid by the respective Members to discharge such Member's Financing Participation Percentage of any Phase I Indebtedness not therefore reimbursed, (which amounts shall be distributed to the respective members), and to the extent the amount realized upon such sale, transfer, or other disposition exceeds the amount of such payments relating to Phase I Indebtedness, to distribute to all Members not then in default, in the Participation Percentages of such Members, the amount of such excess.

22.1.2 Except as otherwise provided in Section 22.1.3, in the event TANC terminates its participation in the Project and no other Participant determines to pursue the Project, TANC may distribute to all Members not then in default, or may sell, transfer, or otherwise dispose of and distribute to all Members not then in default the proceeds of such sale, transfer, or other disposition, in each case in the Participation Percentages of such Members, any assets acquired in connection with the Project as Project Manager, and all of its right, title, and interest therein as a Participant.

22.1.3 In the event TANC terminates its participation in the Project and either TANC or some or all of its Members, whether or not together with one or more of the parties which are Participants in the Project, determines to pursue a successor or alternate project which would benefit from the work performed or the assets acquired by TANC in connection with the Project as Project Manager, whether real or personal property, TANC may sell, transfer, or otherwise dispose of such work or assets, and all of its right, title, and interest therein as a Participant, but only upon payment, or provision for payment satisfactory to TANC, of the amount paid by each Member to discharge such Member's Financing Participation Percentage of any Phase I Indebtedness not therefore reimbursed, (which amounts shall be

distributed to the respective members), and, to the extent the amount realized upon such sale, transfer, or other disposition exceeds the amount of such payments relating to Phase I Indebtedness, to distribute to all Members not then in default, in the Participation Percentages of such Members, the amount of such excess.

18. Appendix C to Project Agreement No. 2 is amended by adding thereto Appendix C-1 in the form attached hereto.

19. Except as modified herein, all provisions of Project Agreement No. 2, as amended and supplemented by Amendment No. 1, shall remain in full force and effect.

20. This Amendment No. 2 may be executed in several counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute a single agreement.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 2 as of the date first written above.

CITY OF ALAMEDA

By _____

And _____

Address _____

CITY OF BIGGS

By _____

And _____

Address _____

CITY OF GRIDLEY

By _____

And _____

Address _____

CITY OF HEALDSBURG

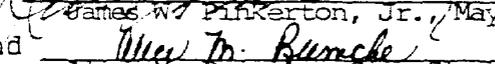
By _____

And _____

Address _____

CITY OF LODI

By  _____
James W. Pinkerton, Jr., Mayor

And  _____
Alice M. Reimche, City Clerk

Address Call Box 3006, Lodi, CA 95241-1910

CITY OF LOMPOC

By _____

And _____

Address _____

MODESTO IRRIGATION DISTRICT

By _____

And _____

Address _____

CITY OF PALO ALTO

By _____

And _____

Address _____

CITY OF REDDING

By _____

And _____

Address _____

CITY OF ROSEVILLE

By _____

And _____

Address _____

SACRAMENTO MUNICIPAL UTILITY
DISTRICT

By _____

And _____

Address _____

CITY OF SANTA CLARA

By _____

And _____

Address _____

TURLOCK IRRIGATION DISTRICT

By _____

And _____

Address _____

CITY OF UKIAH

By _____

And _____

Address _____

PLUMAS-SIERRA RURAL ELECTRIC
COOPERATIVE

By _____

And _____

Address _____

TRANSMISSION AGENCY OF NORTHERN
CALIFORNIA

By _____

And _____

Address P. O. Box 661030
Sacramento, CA 95866

APPENDIX C-1

PARTICIPATION PERCENTAGES

<u>Member</u>	<u>Percentages</u>
City of Alameda	1.713
City of Biggs	0.0
City of Gridley	0.0
City of Healdsburg	0.357
City of Lodi	1.686
City of Lompoc	0.408
Modesto Irrigation District	19.200
City of Palo Alto	4.254
City of Redding	6.400
City of Roseville	1.455
Plumas-Sierra Rural Electric Cooperative	0.358
Sacramento Municipal Utility District	30.600
City of Santa Clara	20.200
Turlock Irrigation District	12.900
City of Ukiah	<u>0.469</u>
	100.000