

RESOLUTION NO. 83-73

RESOLUTION APPROVING THE AGREEMENT FOR FINANCING
OF PLANNING AND DEVELOPMENT ACTIVITIES FOR RELICENSING
OF THE HAAS-KINGS RIVER PROJECT (SECOND PHASE AGREEMENT)

RESOLVED that the City Council of the City of Lodi does hereby approve the Agreement for Financing of Planning and Development Activities for Relicensing of the Haas-Kings River Project (Second Phase Agreement), a copy of which is attached hereto, marked Exhibit "A" and thereby made a part hereof.

BE IT FURTHER RESOLVED that the City Council of the City of Lodi does hereby authorize the Mayor and City Clerk to execute the Subject Agreement on behalf of the City.

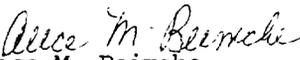
Dated: July 20, 1983

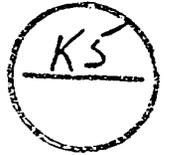
I hereby certify that Resolution No. 83-73 was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 20, 1983 by the following vote:

Ayes: Council Members - Snider and Olson (Mayor)

Noes: Council Members - Pinkerton

Absent: Council Members - Reid and Murphy


Alice M. Reinche
City Clerk



AGREEMENT
FOR
FINANCING OF PLANNING AND DEVELOPMENT ACTIVITIES
FOR RELICENSING OF THE HAAS-KINGS RIVER PROJECT

This Agreement dated as of September 24, 1982, by and between Northern California Power Agency, a joint powers agency of the State of California, hereinafter called "NCPA" and those of its members who execute this Agreement witnesseth:

WHEREAS, NCPA, Sacramento Utility District, hereinafter called SMUD, and the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California, hereinafter called the Southern Cities, have entered into a Haas-Kings River Licensing Application Agreement pursuant to which they will undertake to pursue a joint application with the Federal Energy Regulatory Commission (FERC) for a license for the constructed Haas-Kings River Project No. 1988, hereinafter called the "Project"; and

WHEREAS, NCPA has by its Resolution No. 82-44 authorized the filing of such a joint application with the FERC; and

WHEREAS, NCPA will be entitled to receive 24.61% of the power from the Project if the license is granted, and is obliged to pay 24.61% of the costs associated with said proceedings before FERC, which NCPA obligation is now estimated to be approximately \$350,000; and

WHEREAS, it is desirable that those NCPA members who retain a participation percentage, herein called the "Project Members," formalize their understanding regarding sharing of the benefits

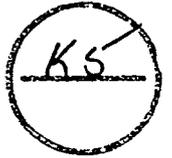
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and burdens assigned to NCPA under the Haas-Kings River Licensing Application Agreement and associated with their participation in the FERC proceedings on the Project; and

NOW THEREFORE, the parties hereto agree as follows:

Section 1. Obligation Formalized-Percentage Participation Collection and Documentation. Each Project Member hereby agrees to pay or advance to NCPA, from its electric department revenues only, its percentage share of the costs authorized by Project Members in accordance with this Agreement in connection with its participation in the FERC proceedings on the Project before the Federal Energy Regulatory Commission. Each Project Member further agrees that it will fix the rates and charges for services provided by its electric department so that it will at all times have sufficient money in its electric department revenue funds to meet this obligation. The percentage participation of each NCPA member which has tentatively determined to be a Project Member is initially established as follows:

Alameda	12.43%
Biggs	1.05
Gridley	2.38
Healdsburg	3.97
Lodi	12.70
Lompoc	5.56
Palo Alto	15.61
Redding	0.00
Roseville	40.74



Santa Clara	0.00
Ukiah	0.00
Plumas-Sierra R.E.C.	<u>5.56</u>
	100.00%

The above participation percentages shall be revised proportionately if less than all of the above NCPA members become Project Members, and thereafter if and when any Project Member withdraws in whole or in part. Any Project Member wholly withdrawing shall thereupon cease to be a Project Member for all purposes except for purposes of Section 4.

Hereafter, NCPA shall demand from each Project Member its share of its agreed to financial commitment on a concurrent basis. Any part of such demand by NCPA which remains unpaid for sixty days after its billing date shall bear interest from such sixtieth day at the prime rate of the Bank of America NT&SA then in effect computed on a daily basis plus two percent until paid. Interest so earned shall not change any Project Member's participation percentage, and shall become a part of the working capital fund defined below.

The funds advanced according to this Section 1 shall be used to establish a working capital fund if and when approved by the Project Members, and in an amount and subject to any limitations approved by the Project Members.

Section 1A. Notwithstanding the revised participation percentages established pursuant to Section 1, expenses incurred by NCPA for the Project prior to the effective date of this

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agreement, repaid to NCPA members pursuant to Section 4 hereof, shall be distributed in the following percentages:

Alameda	7.97%
Biggs	0.64
Gridley	1.55
Healdsburg	2.57
Lodi	8.19
Lompoc	3.64
Palo Alto	16.98
Redding	0.00
Roseville	26.15
Santa Clara	28.72
Ukiah	0.00
Plumas-Sierra	<u>3.59</u>
	100.00%

Section 2. Limited Rights to Participate In Final Implementation and Financing.

(a) Discretion - Disposition of Power. In consideration of the payments provided for in Section 1 hereof each Project Member who has not wholly withdrawn, or who is not then in default shall have an exclusive option to enter into a contract for all or a part of its participation percentage of all power made available to NCPA under the Haas-Kings River Licensing Application Agreement.

(b) Increase in Purchases. A Project Member can, at the time of entering into its Final Power Contract, purchase

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more than its participation percentage of Project power if additional power is available by reason of the non-participation in the Final Power Contract by one or more Project Members. Such excess power shall be reallocated among those who do participate in the same proportion as their shares bear to the total shares of those who do participate. If Project Members so entitled do not wish to contract for all the excess power, such remaining excess shall be disposed of as agreed to by the Project Members.

(c) Exercise and Effect of Taking Less Than Full Entitlement. The Project Members shall establish the terms and provisions of an agreement to purchase power of the Project prior to the expiration of this Agreement, to be known as the Final Power Contract. They shall also establish the date by which the Final Power Contract must be executed by Project Members and delivered to NCPA if they are to participate in the purchase of power from the Project. Failure to execute the Final Power Contract for any of its total participation share and to deliver it to NCPA by that date or 30 days after member receipt, whichever is later, will be an irrevocable decision on part of that Project Member not to purchase any such power. Execution and delivery of the Final Power Contract for less than its total participation percentage and delivery of that Project Member executed agreement to NCPA by the date established or 30 days after Project Member's receipt, whichever is later, will likewise be an irrevocable decision on the part of that Project Member not to purchase any such power in excess of the share set forth

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in its delivered agreement. Supplemental agreements or other agreements will be entered into for the excess or surplus power. The procedure for processing supplemental agreements shall be consistent with those prescribed immediately above in this subsection (c) for making purchases of power. Failure to return an executed agreement for any additional power within the prescribed period is an irrevocable decision not to purchase such additional power. The Project Member making any herein defined irrevocable decision not to purchase all of its share of power shall be foreclosed from receiving, and shall be relieved of further burdens related to, power which it has declined to purchase.

Section 3. Member Direction and Review. NCPA shall comply with all lawful directions of the Project Members with respect to this Agreement, while not stayed or nullified, to the fullest extent authorized by law. Actions of Project Members, including giving above directions to NCPA, will be taken only at meetings of authorized representatives of Project Members duly called and held pursuant to the Ralph M. Brown Act. Ordinarily, voting by representatives of Project Members will be on a one member/one vote basis, with a majority vote required for action; however, upon request of a Project Member representative, the voting on an issue will be by percentage participation with 65% or more favorable vote necessary to carry the action.

Any decision related to the Project taken by the favorable vote of representation of Project Members holding less than 65% of percentage participation can be reviewed and revised if a

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Project Member holding any participation percentage gives Notice of Intention to seek such review and revision to each other Project Member within 48 hours after receiving written notice of such action. If such Notice of Intention is so given, any action taken specified in the notice shall be nullified, unless the NCPA Commissioners of Project Members holding at least 65% of the total participation percentage then in effect vote in favor thereof at a regular or specially called meeting of Project Members. If the Notice of Intention concerned a failure to act, such action shall nevertheless be taken if NCPA Commissioners of Project Members holding at least 65% of the total Participation Percentage vote in favor thereof at a regular or specially called meeting of Project Members.

Section 4. Conditional Repayment to Members. All payments and advances made heretofore, and those hereafter made pursuant to Section 1, excluding interest paid on delinquent payments, shall be repaid to each of the entities making such payments and advances pursuant to this Agreement out of the proceeds of the first issuance of the Project bonds or as and when there are sufficient funds available from partial sale of bonds. Such reimbursements shall be made within 60 days following the sale of any Project bonds and shall include interest computed monthly at a rate equivalent to the end of the month prime rate of the Bank of America NT&SA. Any interest due under the third paragraph of section 1 of this Agreement and unpaid shall be deducted from the repayment. If NCPA, SMUD, and Southern Cities are not

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successful in obtaining a Project license from FERC, there shall be no reimbursement except out of unused Project funds including those then in the Working capital and Contingency Fund account, along with all other receipts to which NCPA is entitled in connection with the Project.

Section 5. Term. This Agreement shall take effect on September 23, 1982, but only if executed by NCPA members holding 85% of the initial percentage participation on or before July 27, 1983. This Agreement shall not be binding upon Plumas-Sierra Rural Electric Cooperative until approved in writing by the Administrator of the Rural Electrification Administration. This Agreement shall be superseded by a third phase agreement which Project Members shall enter any time prior to the issuance of the FERC license, but in no event later than 120 days after the receipt of the FERC license, pursuant to Section 2, except that Section 4 shall remain in effect. Changes in this provision, except as to Section 4, shall be in accordance with Section 3 hereof.

Section 6. Financial Commitments. Each Project Member agrees to a total financial commitment for its respective percentage participation of a total NCPA participation of \$350,000 in costs, including payments and advances heretofore made, as authorized and approved by Project Members.

From time to time as needs arise, representatives of Project Members may, by a favorable vote as provided in Section 3, authorize an increase in NCPA's financial commitment which can

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be shown to support the completion of the Project but only after 30 days' written notice of such proposed increase has been given to all Project Members.

Section 7. Withdrawal From Further Participation. If at any time following the execution of this Agreement, there is an increase in NCPA's financial commitment, Project Members may partially withdraw, i.e., from participation in the increase, or may withdraw wholly from the Project. Such withdrawal shall be subject to honoring any commitments made by them or on their behalf pursuant to authorization of this Agreement. To withdraw, such Project Members shall give NCPA written notice of such withdrawal, in part or in whole, within thirty (30) days of the receipt of the notice by them of the increase.

Section 8. Voting Rights and Duration. A Project Member is participating for purposes of Section 3 percentage voting until it completely withdraws, but a partial withdrawal will result in a reduction in its percentage participation to the ratio of its payments after such withdrawal to the total amount of payments by all Project Members after such withdrawal. When Final Power Contracts agreements are executed, or revised, revised participation percentages for voting shall be established by dividing the amount of power agreed to be purchased by each Project Member by the total amount of power to be purchased by all Project Members except that the 65% of percentage participation specified in sections 3 and 9 shall be reduced by the amount

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that the percentage participation of any Project Member shall exceed 35%, but such 65% shall not be reduced below 50%.

Section 9. Quorum Defined. The presence of either a majority of the Project Members, or of Project Members then having a combined participation percentage of at least 65% shall constitute a quorum for the purpose of action. If no quorum is present at a regular meeting of such Project Members, the absent Project Members shall pay \$50 each, the money to be paid into the working capital fund of the Project.

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

NORTHERN CALIFORNIA POWER AGENCY

By: _____

By: _____

CITY OF ALAMEDA

By: _____

By: _____

CITY OF BIGGS

By: _____

By: _____

(K5)

CITY OF GRIDLEY

By: _____

By: _____

CITY OF HEALDSBURG

By: _____

By: _____

CITY OF LODI

By: Evelyn O'Son Mayor

By: Alvin M. Bernick City Clerk

CITY OF LOMPOC

By: _____

By: _____

CITY OF PALO ALTO

By: _____

By: _____

CITY OF ROSEVILLE

By: _____

By: _____

PLUMAS-SIERRA RURAL ELECTRIC COOPERATIVE

By: _____

By: _____

CITY OF SANTA CLARA

By: _____

By: _____