

SPECIAL MEETING OF THE CITY COUNCIL:

Austin, Texas, October 3, 1939.

The City Council convened in special session, at the regular meeting place in the Municipal Building, on Tuesday, October 3, 1939, at 11:00 A. M., with Mayor Tom Miller presiding. Roll call showed the following members present: Councilmen C. F. Alford, C. M. Bartholomew, Simon Gillis, Mayor Tom Miller, and Councilman Oswald G. Wolf; absent, NONE.

The following communication from the City Manager was submitted and read in full:

"Austin, Texas
October 3, 1939.

Honorable Mayor and City Council
Austin, Texas

Gentlemen:

Relative to the purchase by the City of Austin from the Lower Colorado River Authority certain electric properties, accounts receivable, etc., I submit herewith for your consideration:

- A. Resolution of the Board of Directors of the LCRA authorizing the sale (certified to) .
- B. Resolution of the Reconstruction Finance Corporation authorizing sale (not certified to).
- C. Ordinance of the City Council authorizing and confirming the following:

1. Conveyance to the City of:

- a. The Austin Sub-station
- b. 12.5 KV Electric Distribution System
- c. Contracts, leases and licenses
- d. Accounts receivable
- e. Maps, drawings and records
- f. Privileges and permits and certain reservations and conditions.

2. Closing memorandum covering:

- a. Cash payment by the City of \$334,738.23
- b. Placing in escrow by the City of \$11,500.00 to cover capital expenditures since July 31, 1938
- c. Payment by the LCRA of \$2,000.00 to cover taxes to September 1, 1939
- d. Placing in escrow by the City of \$13,000.00 to cover purchase of accounts receivable
- e. Payment by the LCRA of \$6,820.00 to cover refundable deposits and interest thereon to September 1, 1939, and certain other conditions

3. Escrow agreement between LCRA, City of Austin, and American National Bank with exhibits of escrow forms

4. Agreement between LCRA and City covering:

- a. Purchase by City from LCRA of electricity to be used through the Austin Sub-station
- b. Including such electric purchases in the amount on which depreciation calculations on the Austin Dam and power house will be based
- c. Providing for suitable measurement of electric demand at the point or points of delivery
- d. Providing for the construction of a 69 KV transmission line from the Austin Dam Sub-station to Structure No. 1 mile 40 of the LCRA transmission line connecting to the Austin Sub-station
- e. Providing that LCRA may serve customers from lines within the ten-mile area which are not purchased by the City
- f. Providing \$250.00 a month rental to City for LCRA use of City transmission line
- g. Providing for reciprocal pole use agreement
- h. Providing for purchase by LCRA of Marshall Ford line for \$41,048.64, plus improvements when Marshall Ford Dam is completed.

D. Conveyance from LCRA to City, including descriptive map of lines, marked Exhibit "1".

E. Closing memorandum, including accounting procedure, marked Exhibit "B".

F. Escrow agreements and certificates.

G. Contract between LCRA and City.

Other exhibits attached are marked as follows:

"AA" Release from Bankers Trust Company to the Lower Colorado River Authority

"BB" Conveyance from the Texas Power and Light Company to the Lower Colorado River Authority

"CC" Contract between TP&L and LCRA

"DD" Transfer of contracts, leases and licenses from TP&L to LCRA

"EE" Closing memorandum between LCRA and TP&L

These papers and their terms and conditions appear to be in order and conform to the preliminary agreement approved by the City Council and the LCRA on August 10, 1939. Before closing the purchase, certain papers will have to be properly executed and a final executed LCRA resolution by its Board of Directors will have to be furnished. The City has its money ready and will be ready to close the purchase immediately upon adoption of the ordinance.

Respectfully submitted,

(Signed) Oulton Morgan
City Manager.

(RESOLUTION)

WHEREAS, the Board of Directors of the Lower Colorado River Authority by resolution contained in Minute No. 1053, approved sale of certain lines acquired by the Authority from the Texas Power & Light Company to the City of Austin, and authorized the officers of the Authority to carry out their general agreement with the City; and

WHEREAS, the General Counsel has presented to the Board instruments consisting of a deed of conveyance by the Authority to the City, a closing memorandum fixing and adjusting prices, and an agreement between the City of Austin and the Authority affecting said lines, which instruments are substantially as follows:

and

WHEREAS, it appears to the best interest of the Authority that such instruments be executed and said contract entered into; NOW, THEREFORE;

BE IT RESOLVED by the Board of Directors of the Lower Colorado River Authority that said conveyances and contract be, and the same are hereby ratified and approved as the act and deed of the Authority, and that the General Manager or Chairman or Vice Chairman of the Board of Directors be, and he hereby is authorized and directed to execute the same in the name and on behalf of the Authority; and the Secretary be, and he hereby is authorized and directed to attest the same with the seal of the Authority; and

BE IT FURTHER RESOLVED that the officers of the Authority be, and they hereby are authorized and directed to do all things necessary and proper to carry out the terms and intent of this resolution.

I, S. Raymond Brooks, Secretary of Lower Colorado River Authority, a Conservation and Reclamation District of the State of Texas, created by Act of the Legislature thereof, do hereby certify that the attached and foregoing is a true and correct copy of a resolution adopted by the Board of Directors of Lower Colorado River Authority at a meeting of said Board held at the Austin office on September 14, 1939.

IN WITNESS WHEREOF, I hereunto set my hand and affix the official seal of said Lower Colorado River Authority, this the 21st day of September, A. D. 1939.

(Signed) S. Raymond Brooks
Secretary.

(SEAL)

(RESOLUTION)

RECONSTRUCTION FINANCE CORPORATION

RESOLUTION

Re: LOWER COLORADO RIVER AUTHORITY
(Austin, Texas)

WHEREAS, Reconstruction Finance Corporation is the owner and holder of all of the bonds of Lower Colorado River Authority now issued and outstanding, in the aggregate principal amount of \$18,850.00; and

WHEREAS, the said bonds are secured by an Indenture of Trust dated as of June 1, 1939, in which The American National Bank of Austin is named as Trustee, and in which Section 10.01 provides that the Authority may sell property to a municipality, for cash, if the owners and holders of 75% in principal amount of all the bonds issued and outstanding shall consent in writing to such sale, or if a report made by an Independent Engineer (as defined in Section 1.01 of said Indenture), containing data specified in said Section 10.01 shall be filed with the Trustee; and

WHEREAS, the Authority under date of August 30, 1939, entered into a collateral agreement with this Corporation, under Section 20 of which the Authority "covenants and agrees that at all times during which RFC holds any bonds issued by the Authority, the Authority will not sell or offer to sell any of its property without the prior written consent of RFC"; and

WHEREAS, the Authority under date of August 10, 1939, entered into a memorandum agreement with the City of Austin for the sale to the City of all those lines (to be acquired by the Authority from Texas Power & Light Company) which are served from its Austin Substation including the Austin Substation, for a consideration of \$334,732.23 plus the cost of capital additions made thereto since July 31, 1938, and plus the cost to the Authority of accounts receivable; the said memorandum not being intended as a contract, and to become binding only when prepared in more detail and approved by proper ordinances and resolutions of the City Council and the Board of Directors of the Authority; and

WHEREAS, under date of August 12, 1939, the Authority has requested approval by this Corporation of the proposed sale, and has submitted with its request a copy of the said memorandum and a certificate of Francis T. Quigley, Senior Engineer, Power Division, Public Works Administration, to the effect that

he made an original appraisal of the properties as of July 31, 1938, that the base purchase price of \$334,738.23 named in the memorandum represents approximately the cost of reconstruction new of said properties plus 8.9%, that said sum represents the full value of the property as of July 31, 1938, and that said property is not necessary for the efficient operation of the Authority's system or the conduct of the business of the Authority; and

WHEREAS, on the basis of available data the proposed sale at the price stated will not adversely affect the interests of the bondholders:

NOW, THEREFORE, BE IT RESOLVED, That this Corporation consents to and approves the sale by the Authority to the City of Austin of the property described in said memorandum agreement for cash at a price not less than that fixed in said memorandum agreement and upon the terms outlined therein, provided the proceeds of sale to the extent of \$300,000 shall be paid over to the Trustee and the Trustee shall forthwith deposit same in the Sinking Fund, in compliance with the provisions of Section 10.03 of the Trust Indenture, and the proceeds of sale in excess of said amount shall be paid over promptly to the Trustee to be credited in accordance with the provisions of Section 10.04 of the said Trust Indenture, and the directions of the Authority, to the Construction Fund.

FURTHER RESOLVED, That the Chief or Acting Chief, Self-Liquidating Division of this Corporation and Counsel be and hereby are authorized on behalf of this Corporation to evidence its approval of compliance with and fulfillment of the conditions of this resolution by the Authority.

FURTHER RESOLVED, That the Secretary or an Assistant Secretary of this Corporation be and hereby is authorized and directed to forward a certified copy of this resolution to the Lower Colorado River Authority at Austin, Texas.

* * * * *

The foregoing resolution was duly adopted by the Board of Directors of the Reconstruction Finance Corporation on the 11th day of September, 1939.

Secretary
Reconstruction Finance Corporation

The Mayor laid before the Council the following ordinance:

AN ORDINANCE APPROVING, RATIFYING AND CONFIRMING THE PURCHASE BY THE CITY OF AUSTIN OF CERTAIN DISTRIBUTION LINES AND PROPERTIES FROM LOWER COLORADO RIVER AUTHORITY, APPROVING THE FORM OF CONVEYANCE OF SUCH PROPERTY BY THE AUTHORITY TO THE CITY, APPROVING A CLOSING CONTRACT BETWEEN THE CITY AND THE AUTHORITY, PROVIDING FOR ADJUSTMENT OF CERTAIN PAYMENTS ON THE PURCHASE PRICE OF SUCH PROPERTIES, APPROVING A CONTRACT AND AGREEMENT BETWEEN THE AUTHORITY AND THE CITY OF AUSTIN, AND AGREEMENT COVERING PURCHASE AND SALE OF ELECTRIC ENERGY CONSUMED ON THE PROPERTIES PURCHASED, THE CONSTRUCTION OF A TRANSMISSION LINE BY THE CITY, WAIVER OF CERTAIN PROVISIONS OF A LEASE AND AGREEMENT ENTERED INTO BETWEEN THE CITY AND THE AUTHORITY, AS OF DATE FEBRUARY 5, 1938, PROVIDING FOR THE USE BY THE AUTHORITY OF THE TRANSMISSION LINE TO BE BUILT BY THE CITY AND THE PURCHASE BY THE AUTHORITY OF THE TRANSMISSION LINE OWNED BY THE CITY AND EXTENDING FROM THE CITY OF AUSTIN TO MARSHALL FORD DAM; AUTHORIZING THE ACCEPTANCE OF SAID CONVEYANCE, THE PAYMENT OF THE PURCHASE PRICE THEREUNDER; AND AUTHORIZING THE EXECUTION OF THE AFORESAID CONTRACTS AND THE PERFORMANCE OF THE CITY'S OBLIGATIONS THEREUNDER; AND CONFERRING ON THE AUTHORITY THE RIGHTS AND PRIVILEGES PROVIDED FOR IN SAID CONTRACTS; AND DECLARING AN EMERGENCY.

The ordinance was read the first time and Councilman Alford moved that the rule be suspended and the ordinance be passed to its second reading. The motion was adopted by the following vote: Ayes, Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The ordinance was read the second time and Councilman Gillis moved that the rule be further suspended and the ordinance passed to its third reading. The motion was adopted by the following vote: Ayes, Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The ordinance was read the third time and Councilman Bartholomew moved that same be finally passed. The motion was adopted by the following vote: Ayes, Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

The Mayor announced that the ordinance had been finally passed.

Councilman Wolf introduced the following resolution:

WHEREAS, the City of Austin now owns or has possession of by easement or controls legally a certain body of water known as Lake Austin and lands adjacent thereto as hereinafter described; and

WHEREAS, the City of Austin desires to have established a sanctuary for birds, migratory fowl, and other wild life on the water and lands hereinafter described; and

WHEREAS, the United States Government, through the Biological Survey of the Department of the Interior is willing to establish such a sanctuary in accordance with authority vested in them under the Migratory Bird Conservation Act of February 18, 1929, and acts subsequent thereto; therefore

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

THAT the City Manager be and is hereby authorized and directed on behalf of the City of Austin to execute an agreement as hereinafter written:

THE STATE OF TEXAS :

COUNTY OF TRAVIS :

THIS AGREEMENT made this 3rd day of October, 1939, by and between the City of Austin, a municipal corporation situated in Travis County, State of Texas, hereinafter referred to as the City, and the United States of America, party of the second part, hereinafter referred to as the Government, WITNESSETH:

WHEREAS, the City is in possession of a body of water which forms a lake over the land hereinafter described, known as Lake Austin, and is the owner in fee or has control of the easement of all of the said lands in the lake thereon; and

WHEREAS, the City desires to have established a wild life and bird sanctuary on the water and lands hereinafter described; and

WHEREAS, the Government, acting by and through the United States Department of the Interior, Bureau of Biological Survey, is willing to establish such a sanctuary in accordance with the authority vested in it by virtue of the Migratory Bird Conservation Act of February 18, 1929, and Acts supplementary thereto and amendatory thereof; and

WHEREAS, in order to carry out the intention of establishing and maintaining said sanctuary, it is necessary that the City grant certain authorizations to the United States Government conveying upon the Government, and its authorized agents, the right, insofar as the City has the right and authority to grant same, of ingress and egress to said lake and lands;

NOW THIS AGREEMENT WITNESSETH:

The City of Austin for and in consideration of the establishment and maintenance of the Lake Austin migratory bird refuge on the land and water hereinafter described, does hereby grant and convey to the Government, and its authorized agents or representatives, insofar as the City has the right to grant and convey same, permanent access to, over, and across all tracts of land, or parts thereof, and water situated thereon, lying and being in the City of Austin, County of Travis, State of Texas, as particularly described as follows:

Beginning at a point on the west bank of the Colorado River, which is on a line with the top of the dam at Lake Austin, and from which point a hole drilled in the center line of the dam bears S. 82°58' E. 1280 feet, and from which point an iron stake on the east side of the Colorado River, which iron stake is a point on the City line boundary, bears N. 44°12' E. 2025.64 feet; thence up the west bank of the Colorado River, following a contour which is 15 feet higher than the top of the Austin Dam as constructed about 1892, said contour elevation being 504.9 feet above mean sea level, 23 miles, more or less, to the point where said contour of 504.9 feet crosses the Colorado River; thence down the east bank of the Colorado River, following a contour which is 15 feet higher than the top of the Austin Dam as constructed about 1892, said contour elevation being 504.9 feet above mean sea level, 23 miles, more or less, to an iron stake on the east bank of the Colorado River, and from which stake a point on the west bank of the Colorado River opposite the center line of the dam previously mentioned in this boundary description bears S. 44°12' E. 2025.64 feet, and from which stake a hole drilled in the center of the Dam near the east end of the Dam bears S. 5°3' W. 1615.1 feet; thence continuing said contour, having an elevation of 504.9 feet above mean sea level (this segment of said contour line is not following the corporate limits of the City of Austin) to a point where this contour line intersects the easterly prolongation of the center line of the dam across the Colorado River, as of this date (September 29, 1939); thence in a westerly direction, following said center line and crossing the Colorado River, to the place of beginning.

It is mutually understood and agreed by both parties hereto that the City of Austin is granting to the United States of America only such rights and easements as it possesses or controls and nothing herein shall be construed as obligating the City of Austin to acquire any easements or privileges from the owner or owners of any land to enable the United States Government, its agents, employees, or representatives, to have access to said land or waters for any purpose whatsoever.

It is mutually understood and agreed by both parties hereto that the United States of America, its agents or assigns, shall have full jurisdiction and control, insofar as the City of Austin has the right to grant same, over any and all birds, migratory water fowl, and all other wild life that may at any time hereafter be in, on, or over the above described area for the purpose of protecting said birds, migratory water fowl, and other wild life and for the enforcement of all laws, rules, and regulations under the Migratory Bird Conservation Act of February 18, 1929 (45 STAT. 1222) and Acts supplementary thereto and amendatory thereof.

It is further understood and agreed that the conveyance by the City of Austin of the herein described rights and privileges to the Government do not waive the rights of the City to enforce all applicable laws and ordinances of the State of Texas and of the City of Austin to the lake and area herein described and do not waive or convey any of the rights of the City of Austin in regulating and controlling the use of said lake for recreational and other purposes as are not in conflict with the necessary protection of the sanctuary by the United States Government or its authorized agents operating within the authority and rules and regulations of the Migratory Bird Conservation Act heretofore referred to and all supplementary acts thereof.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

CITY OF AUSTIN

By: City Manager.

UNITED STATES GOVERNMENT

BY: _____

(SEAL)
Attest:

City Clerk

BE IT FURTHER RESOLVED BY THE CITY COUNCIL:

THAT the City of Austin pledges its full cooperation toward assisting the United States Government in all things possible towards establishing and maintaining a successful wild life and bird sanctuary on Lake Austin.

The foregoing resolution was adopted by the following vote: Ayes, Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf. Nays, none.

Upon motion, seconded and carried, the meeting was recessed at 12:20 P. M., subject to call of the Mayor.

Attest:

Wallis McKeen
City Clerk

Approved Tom Miller
Mayor

REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, October 5, 1939.

The City Council convened in regular session, at the regular meeting place in the Municipal Building, on Thursday, October 5, 1939, at 10:30 A. M., with Mayor Tom Miller presiding. Roll call showed the following members present: Councilmen C. F. Alford, C. M. Bartholomew, Simon Gillis, and Mayor Tom Miller. Absent, Councilman Oswald G. Wolf.

The reading of the Minutes was dispensed with.

It was moved by Councilman Bartholomew that both November 23 and November 30 be observed by the City Government as Thanksgiving holidays, and that all City Departments close on those days in the customary manner. The motion was carried by the following vote: Ayes, Councilmen Alford, Bartholomew, Gillis, and Mayor Miller. Nays, none. Councilman Wolf absent.

Messrs. East and Barton appeared before the Council and submitted a draft of an ordinance regulating the sale of poultry and eggs in the City of Austin, and asked that the same be passed. The ordinance was referred to the City Attorney for examination and approval, and a public hearing on the matter was set for the regular meeting on Thursday, October 19.

A committee representing the Travis County Water Control Improvement District #1, being the area contiguous to St. Elmo, appeared before the Council relative to the sale of water at wholesale by the City of Austin to said District for retail distribution through its mains. After some discussion, the matter was referred to a conference between the City Manager, the Superintendent of the Water Division, and the Committee to work out an agreement mutually satisfactory to both parties.

The application of A. R. Richey, by Hart & Brown, Attorneys, for a change in zoning of the property at the northwest intersection of Marshall Ford Dam and Burnet Roads from "C" Commercial District to "C-2" Commercial District, was received. The matter was referred to the Board of Adjustment for consideration and recommendation, and a public hearing was called for Thursday, October 26, at 11:00 A. M.

The application of North Millican for a change in zoning of the property known as 1412 Congress Avenue, being 50'x110' of Lots 5 and 6, Block 173, fronting 50' on Congress Avenue and 110' on West 15th Street, from "B" Residence District to "C" Commercial District, was received. The matter was referred to the Board of Adjustment for consideration and recommendation, and a public hearing was called for Thursday, October 26, at 11:00 A. M.

The following report of the Board of Equalization for the year 1939 was received, read, and ordered filed: