

## REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, May 28, 1942.

The City Council convened in regular session, at the regular meeting place in the Council Chamber at the Municipal Building, on Thursday, May 28, 1942, at 10:30 A. M., with Mayor Pro Tem. Wolf presiding. Roll call showed the following members present: Councilmen Alford, Bartholomew, Gillis, and Mayor Pro Tem. Wolf; absent, Mayor Miller.

The Minutes of the regular meeting of May 22, 1942, were read, and upon motion of Councilman Alford, were adopted as read by the following vote: ayes, Councilmen Alford, Bartholomew, Gillis, Mayor Pro Tem. Wolf; nays, none; Mayor Miller absent.

A petition, bearing approximately two hundred signatures, asking that the Austin Transit Company extend bus service to the eastern part of Ridgetop and adjacent territory, was presented by Mrs. Lyle Hamner and others. After some discussion, the matter was referred to the Acting City Manager and J. E. McClain of the Austin Transit Company to determine what can be done under priority regulations and report to the Council at the next regular meeting.

The written request of J. F. Springfield, General Manager of the Austin Transit Company, asking for approval of a change in route of the Lafayette-East Avenue Bus Line, was received.

Mayor Pro Tem. Wolf then offered the following resolution and moved its adoption:

WHEREAS, The Austin Transit Company has requested certain changes in one of its bus routes; and

WHEREAS, The Police Department and the Engineering Department have approved this change; and

WHEREAS, The said Austin Transit Company has represented that the proposed change does not increase bus mileage, but does, by creating a loop, serve the particular neighborhood more efficiently; now, therefore,

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

THAT the Acting City Manager be, and he is hereby, authorized to grant the request of the said Austin Transit Company for the following change in one of its bus routes:

LAFAYETTE-EAST AVENUE BUS LINE: Instead of the present route from Lafayette Street west on 29th Street to East Avenue and north on East Avenue to Concordia Avenue, said route be changed to run north on Lafayette Street to Concordia Avenue, thence west on Concordia Avenue to East Avenue, thence south over present route on East Avenue to City.

The motion prevailed by the following vote: ayes, Councilmen Alford, Bartholomew, Gillis, and Mayor Pro Tem. Wolf; nays, none; Mayor Miller absent.

A communication from Horace H. Shelton, Chairman of Program Committee of Veterans' Memorial Service, inviting the City Council to be present at their services at Wooldridge Park on Sunday, May 31, at 4:30 P. M., was received; and the City Clerk was instructed to notify said Chairman of the Council's acceptance of same.

Acting City Manager Seaholm submitted a memorandum from the Tax Assessor and Collector showing a comparison of current tax collections as of the same date last year, which was received and filed.

It was moved by Councilman Gillis, seconded by Councilman Alford, that the penalty date on taxes, to wit, June 1, be extended to allow three days of grace, making such penalty effective on and after June 4th. The motion prevailed by the following vote: ayes, Councilmen Alford, Bartholomew, Gillis, and Mayor Pro Tem. Wolf; nays, none; Mayor Miller absent.

The following application for a license to operate a private boat was submitted:

Name and Address of Applicant

A. H. Swanson - 3214 Beverly Road

Description of BoatMyers Spatti, Dixie, Outboard,  
1941 Model, Johnson, 6-passenger

Councilman Bartholomew moved that the application be granted, subject to the approval of same by the Lake Austin Navigation Board. The motion prevailed by the following vote: ayes, Councilmen Alford, Bartholomew, Gillis, and Mayor Pro Tem. Wolf; nays, none; Mayor Miller absent.

Councilman Alford offered the following resolution and moved its adoption:

WHEREAS, Master Valet Service, acting by and through Martin Herman, has presented to the City Council of the City of Austin a request for permission to construct, maintain and operate a temporary steam line, 3/4" to 1" in diameter, across Congress Avenue alley, at a location approximately 33 feet south of the south line of East 7th Street within the City of Austin, Travis County, Texas; and

WHEREAS, the City Engineer has recommended that said installation be approved and the City Council of the City of Austin has reviewed and considered said recommendation; therefore,

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

THAT Master Valet Service, acting by and through Martin Herman, be, and the same is hereby, permitted to install a temporary steam line, 3/4" to 1" in diameter, across Congress Avenue alley, at a location approximately 33 feet south of the south line of East 7th Street within the City of Austin, Travis County, Texas.

The construction, maintenance and operation of the aforesaid temporary steam line shall be carried out at the expense of the applicant and under the direction and supervision of the City Engineer of the City of Austin, or his duly authorized representative, and shall be constructed at least 16 feet above said alley and also shall not obstruct the fire escape on any building at the above described location, and in the acceptance of this permit the said Master Valet Service assumes all damages which may occur to public or private property by virtue of this temporary steam line's being placed across Congress Avenue alley at the location above described.

It is further understood that any damages whatsoever caused to existing utilities during the course of construction, maintenance or operation of said temporary steam line shall be paid for by the applicant above named.

It is further understood, however, that this permit is granted subject to the provision that said steam line shall be placed under ground if possible; or, if not, if same is placed over head, that said firm shall sign an agreement, to be drawn by the City Attorney, agreeing to remove said steam line as soon as priority regulations will permit the installation of a boiler at its place of business.

The motion prevailed by the following vote: ayes, Councilmen Alford, Bartholomew, Gillis, and Mayor Pro Tem. Wolf; nays, none; Mayor Miller absent.

Councilman Bartholomew offered the following resolution and moved its adoption:

WHEREAS, the War Production Board has requested the City of Austin and other producers of electric power and energy in Texas to pool their power and to deliver available power and energy to the Houston Lighting and Power Company to be used by said Company in war production work; and

WHEREAS, the Lower Colorado River Authority, consistent with this program, has been designated as the organization to convey such power and energy for the pooled interests to the Houston Lighting and Power Company; therefore,

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

THAT the City Manager, or in his absence, the Acting City Manager, be, and he is hereby, authorized and directed to enter into a contract with the Lower Colorado River Authority for the purchase and sale of electric power and energy substantially in accordance with the terms and

provisions of the draft of a contract attached hereto and made a part of this resolution for all purposes.

(Contract Attached)

WHEREAS, the War Production Board has requested the Lower Colorado River Authority, and other producers of electric power and energy in South Texas, to deliver available power and energy to the Houston Lighting & Power Company, to be used by said Company in National Defense work; and

WHEREAS, the City of Austin has been requested to make available power and energy to the Lower Colorado River Authority for said purpose; and

WHEREAS, the Lower Colorado River Authority and the City of Austin are desirous of complying with such request; now, therefore,

For and in consideration of the premises and of the mutual benefits to be derived from the covenants and provisions contained in this Agreement, the parties hereto do agree as follows:

#### ARTICLE I

##### Parties to the Agreement

The parties to this Agreement are Lower Colorado River Authority, hereinafter referred to as "Authority," a conservation and reclamation district created by and operated under and pursuant to the provisions of Chapter 7 of the General Laws of the 43rd Legislature of the State of Texas, at its 4th Called Session, as amended, and the City of Austin, hereinafter referred to as "City," a municipal corporation organized and existing under the laws of the State of Texas.

#### ARTICLE II

##### Purchase and Sale

A. During the term of this Agreement, and subject to all provisions and conditions of said Agreement, City agrees to sell to Authority and Authority agrees to purchase from City:

5,000 kilowatts of secondary power which is to be furnished by City to Authority when same is available, as set out hereinbelow.

B. Secondary energy shall be available to Authority at any time secondary power is available. In addition to the secondary energy available from the use and by virtue of the availability of the 5,000 kilowatts of secondary power provided for in subdivision "A" of this Article II, additional secondary energy shall be available to Authority from the City at any time additional secondary power is available; and, for the purposes of this Agreement, "additional secondary power" is defined to be power above the amount necessary to supply the demands of customers of the City and which is therefore available from the generating facilities of the City at such time or times as the City has in operation generating capacity in excess of the load requirements of its customers, including the 5,000 kilowatts of secondary power described in subdivision "A" of this Article II. Authority shall not be obligated to purchase secondary energy when same is available from either that capacity provided for herein in subdivision "A" of Article II or that capacity designated as additional secondary power, but it is agreed and understood that Authority shall regularly, twenty-four (24) hours in advance, furnish to City a schedule of the requirements of the Authority for secondary energy for the ensuing day to be furnished under this Agreement, and to the extent that such secondary energy is available, in accordance with the terms and provisions of this Agreement, it shall thereupon become the obligation of the City to deliver and the obligation of the Authority to take such secondary energy, in accordance with the schedule furnished.

C. It is understood and agreed by the parties hereto that power is and shall be deemed to be available hereunder from the City to the Authority, in so far as the provisions of subdivision "A" of Article II hereof are concerned, when the City by so operating its generating facilities can produce

power in excess of the load requirements of its customers, and that, upon request of the Authority to the City, when power can be made available by the City, the City agrees and covenants that it will so operate its facilities to make the same available to the extent provided in subdivision "A" of Article II hereof. If at any time when the Authority requests that power be made available to it under this Agreement, the City cannot, or does not, operate its generating facilities so as to produce sufficient power in excess of the load requirements of its customers (exclusive of the demand of the Authority under this Agreement) to meet the 5,000-kilowatt demand specified in subdivision "A" of Article II hereof, then and in such event the minimum monthly demand charge under this Agreement shall be correspondingly reduced to the extent of such inability to meet the 5,000-kilowatt demand.

D. All of the power and energy to be supplied hereunder shall be generated wholly within the State of Texas.

### ARTICLE III

#### Rate Schedule

A. Authority shall pay City monthly for the power and energy purchased hereunder, at the following rates:

For the 5,000 kilowatts of secondary power - \$0.75 per kilowatt per month (subject to adjustment provided for in subdivision "C" of Article II hereof).

Secondary energy - for the first 7,000,000 kilowatt hours taken by Authority per month, 4 mills per kilowatt hour.

For all secondary energy above 7,000,000 kilowatt hours taken by Authority per month, 3 mills per kilowatt hour.

It is understood and agreed that the minimum net monthly bill hereunder due by Authority to the City shall in no case be less than the sum of \$3,750.00 (except when City is unable to meet the 5,000 kilowatt demand, in which event the demand charge is to be adjusted, as set out in Subdivision "C" of Article II hereof), and for all secondary energy delivered to and taken by Authority hereunder, Authority will pay City therefor, in addition to the minimum charge per month, at the rate specified in subdivision "A" of Article III hereof, and in the manner provided by this Agreement.

B. In the event the Authority shall request the City to furnish and the City does furnish secondary power in excess of the 5,000 kilowatts specified in Subdivision "A" hereof, the Authority shall be obligated to pay the City therefor at the same rate per kilowatt per month specified in Subdivision "A" hereinabove, unless:

- (a) Such additional demand is due to an emergency, or
- (b) Such additional demand is not in excess of the total peak demand of the City's customers for that day plus the 5,000 kilowatt demand specified in Subdivision "A" above,

and in the event of either (a) or (b) of this Subdivision "B", then the Authority shall not be obligated to pay for said demand above the 5,000 kilowatts.

C. The Authority shall furnish necessary metering equipment at the Austin Dam Powerhouse for the measuring and recording of the power and energy delivered by City to Authority hereunder.

### ARTICLE IV

#### Billing and Payment

A. Bills for power and energy supplied hereunder shall be based on the registration and graphic charts of the Authority's meters and on the terms and conditions of this Agreement, and shall be rendered monthly by the party furnishing such power and energy to the party receiving same, in accordance with the rates and charges provided for in Article III. Unless otherwise agreed upon by the parties, a billing month for the purposes hereof shall be a calendar month. Bills shall be rendered, whenever practicable, on or before the 15th day of the following calendar month and such bills shall be

accompanied by a statement itemizing all factors which may be necessary to a proper determination and computation of such bill.

B. All bills rendered shall be due and payable on or before the 25th day of the calendar month following the month to which the bills are applicable, or on the 15th day after the receipt of the bill, whichever date may be the later. All amounts due hereunder and not paid within ten (10) days of the due date shall carry interest at the rate of 6% per annum from the due date. If either party defaults in the payment of any bill, the other party may declare this Agreement to be at an end. Neither party shall be in default hereunder if, in the case of a bona fide dispute with respect to any portion of its bill, it shall make payment of the remainder not in dispute.

#### ARTICLE V

##### Repayment of Cost of Additional Equipment

It is understood and agreed that in order for the power and energy to be made available by City to Authority, as set out hereunder, it is necessary for the City to expend a total of \$8,100 for equipment and labor. Houston Lighting & Power Company of Houston, Texas, is fully acquainted with the material and labor required and has agreed that said charge of \$8,100 is fair, just and reasonable, and said Company has agreed to repay to the City said amount of \$8,100; and the Authority hereby agrees that it will obtain a written agreement, in a form satisfactory to the City, for the repayment of said \$8,100 by Houston Lighting & Power Company to the City of Austin.

#### ARTICLE VI

##### Point of Delivery and Voltage Regulation

All power and energy to be delivered hereunder shall be delivered by the City and received by the Authority at the 12.5 KV Substation of the City located adjacent to Austin Dam, in Travis County, Texas, and same will be delivered at a nominal voltage of 12.5 KV.

#### ARTICLE VII

##### Operating Agreements and Conditions

Both parties agree to operate and maintain the equipment belonging to each so that the terms and conditions of this Agreement can be carried out.

#### ARTICLE VIII

##### Term of Agreement

This Agreement shall become effective July 1, 1942 (except as to the provisions of Article V which become effective immediately), and it is contemplated that the Agreement shall continue only during the pending National Defense emergency, but this Agreement may be terminated at any time, including the said emergency period, by either party hereto upon thirty (30) days' written notice to the other party.

#### ARTICLE IX

##### Continuity of Service

A. Both parties hereto shall exercise due diligence and reasonable care and foresight to maintain continuity of service in the delivery and receipt of power and energy as provided for in this Agreement, but shall not be considered to have failed in said obligation by reason of interruption or curtailment of said service occasioned by force majeure. Force majeure shall mean flood, earthquake, storm, landslide, lightning, fire, epidemic, accident, failure of facilities, war, act of the public enemy, riot, civil disturbance, strike, labor disturbance, arrests and restraints of rulers and people, or other causes, whether of the kind enumerated or otherwise, beyond the control of the party affected, which by exercise of due diligence such party could not reasonably have been expected to avoid.

B. Each party shall exercise due diligence to remove any inability caused by force majeure with all reasonable dispatch, provided each party shall be under no obligation to settle any labor dispute except as said party may deem advisable and desirable.

#### ARTICLE X

##### Waivers

Any waiver at any time by either party of its right with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or matter.

#### ARTICLE XI

##### Notices and Inurement of Benefits

A. Any written notice, demand, request, bill, or payment required or authorized by this Agreement shall be deemed properly delivered or made to Authority if mailed to Lower Colorado River Authority, American Statesman Building, Austin, Texas, and shall be deemed properly delivered or made to City if mailed to City of Austin, Municipal Building, Austin, Texas. The designation of the address of either party may be changed by the respective party at any time, and from time to time, by similar notice.

B. This agreement shall inure to the benefit of and be binding upon the successors and assigns of the respective parties hereto.

#### ARTICLE XII

##### Temporary Suspensions

A. It is understood and agreed that during the term of this Agreement the Authority shall be under no obligation to make available to the City of Austin any power and energy required to be furnished by the Authority to the City under the terms and provisions of the Lease and Agreement between the City and the Authority dated the 5th day of February, 1938. But the Authority shall continue to furnish and the City shall purchase the necessary power and energy to meet the requirements of subdivision (a) of Paragraph II of that certain Agreement between the Authority and the City dated October 10, 1939; and (in order to insure the payment in full of rentals to which the City is entitled under Article VI of said Lease and Agreement dated February 5, 1938) if in any calendar year the amount due and owing by the City to the Authority for electric power and energy delivered to the City by the Authority during such calendar year shall be less than the sum of \$20,000.00, then in that event the Authority shall pay to the City in cash a sum equal to the difference between the amount due and owing by the City and the sum of \$20,000.00.

B. It is further agreed during the term of this Agreement that depreciation to be allowed under and by virtue of the provisions of that certain Lease and Agreement between the City and the Authority, dated February 5, 1938, shall be as follows:

(a) "Equipment and machinery" (as defined in Article V of said Lease and Agreement dated February 5, 1938) shall be depreciated at a rate of 3-1/3% per annum on "cost" (as defined in Article V of said Lease and Agreement dated February 5, 1938);

(b) The "power house" constructed by the Authority at the Austin Dam shall likewise be depreciated at a rate of 3-1/3% per annum on the cost of the power house, which cost was fixed at \$80,000.00 under the terms of the Lease and Agreement dated February 5, 1938;

(c) The "dam and other permanent structures" shall be depreciated at a rate of 1-1/2% per annum on "cost" (as defined in Article V of said Lease and Agreement dated February 5, 1938).

C. Except in so far as subdivisions "A" and "B" above of this Article XII alter and suspend the contracts between the Authority and the City, dated February 5, 1938, and October 10, 1939, said existing agreements are otherwise hereby ratified and affirmed; and it is distinctly understood and agreed that the provisions of said two agreements which are suspended by this Agreement, as provided in subdivisions "A" and "B" above, are only temporarily suspended for the period of this



Agreement, and immediately upon the termination of this Agreement such temporary suspensions shall cease and the parties hereto shall again be bound by all the provisions of the two agreements between the Authority and the City dated February 5, 1938, and October 10, 1939.

IN WITNESS WHEREOF, the parties hereto have caused their corporate seals to be hereunto affixed, and these presents to be signed by their duly authorized officers this the \_\_\_\_ day of \_\_\_\_\_, 1942.

LOWER COLORADO RIVER AUTHORITY

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

THE CITY OF AUSTIN

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

The motion was seconded by Councilman Gillis, and the same prevailed by the following vote: ayes, Councilmen Alford, Bartholomew, Gillis, and Mayor Pro Tem. Wolf; nays, none; Mayor Miller absent.

It was moved by Mayor Pro Tem. Wolf, seconded by Councilman Alford, that the City Attorney be authorized and directed in behalf of the City of Austin to join with the Attorney General and the State of Texas in appealing from the judgment of the District Court in the case of the State of Texas vs. R. E. Jones and others, in which the City of Austin recently intervened - which intervention is here and now ratified by the City Council - asserting an interest in the south bank of the Colorado River between the Congress Avenue Bridge and the I-GN Railroad Bridge, with the assurance of the Attorney General that the City of Austin will not be held responsible for any court costs, either in the trial of the case or in its appeal.

The motion prevailed by the following vote: ayes, Councilmen Alford, Bartholomew, Gillis, and Mayor Pro Tem. Wolf; nays, none; Mayor Miller absent.

The following resolution was introduced:

WHEREAS, City of Austin taxes were assessed in the name of Mrs. J. L. Peeler for the years 1936, 1937, 1938, and 1939 on the west 50 x 100 feet of Lot 1, Outlot 47, Mathis Subdivision, and personal property for the years 1936, 1937, and 1938, said taxes being for the sum of \$403.57; and for non-payment of same at maturity, penalty in the sum of \$20.17 has been assessed, and interest in the sum of \$83.75 has accrued, making the total amount of taxes, penalty and interest the sum of \$507.52; and

WHEREAS, the City Council of the City of Austin deems it just and equitable to remit said penalty in the sum of \$20.17, and one-half of the interest in the sum of \$41.89; therefore,

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

THAT the aforesaid penalty in the sum of \$20.17 and one-half of the interest in the sum of \$41.89 are hereby remitted, and the Tax Assessor and Collector of the City of Austin is authorized and directed to charge said penalty in the sum of \$20.17 and one-half of the interest in the sum of \$41.89 off his rolls, and to issue to the party entitled to receive same a receipt in full upon the payment of said taxes and one-half of the interest, as aforesaid.

Upon motion, the foregoing resolution was adopted by the following vote: ayes, Councilmen Alford, Bartholomew, Gillis, and Mayor Pro Tem. Wolf; nays, none; Mayor Miller absent.

The following resolution was introduced:

WHEREAS, City of Austin taxes were assessed in the name of A. B. Lennox for the year 1938 on the south 85.6 feet of Lot 1, Block 7, Outlot 56, Division "B", Plat 33, G. L. Robertson Subdivision,

said taxes being for the sum of \$90.56; and for nonpayment of same at maturity, penalty in the sum of \$4.52 has been assessed, and interest in the sum of \$16.44 has accrued, making the total amount of taxes, penalty and interest the sum of \$111.52; and

WHEREAS, the City Council of the City of Austin deems it just and equitable to remit said penalty in the sum of \$4.52 and one-half of the interest in the sum of \$8.22; therefore,

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

THAT the aforesaid penalty in the sum of \$4.52 and one-half of the interest in the sum of \$8.22 are hereby remitted, and the Tax Assessor and Collector of the City of Austin is authorized and directed to charge said penalty in the sum of \$4.52 and one-half of the interest in the sum of \$8.22 off his rolls, and to issue to the party entitled to receive same, a receipt in full upon the payment of said taxes and one-half of the interest, as aforesaid.

Upon motion, the foregoing resolution was adopted by the following vote: ayes, Councilmen Alford, Bartholomew, Gillis, and Mayor Pro Tem. Wolf; nays, none; Mayor Miller absent.

Upon motion, seconded and carried, the meeting was recessed at 11:10 A. M., subject to call of the Mayor.

Approved Bartholomew H. Wolf  
Mayor Pro Tem.

Attest:

Wallie M. Keller  
City Clerk

# REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, June 5, 1942.

The City Council convened in regular session, at the regular meeting place in the Council Chamber at the Municipal Building, on Friday, June 5, 1942, at 10:40 A. M., with Mayor Tom Miller presiding; the meeting having been held on Friday instead of Thursday, the regular meeting day, at the request of the Mayor. Roll call showed the following members present: Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf; absent, none.

The Minutes of the regular meeting of May 28, 1942, were read, and upon motion of Councilman Alford, were adopted as read by the following vote: ayes, Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf; nays, none.

A written invitation from Major Wm. J. Lawson, Commanding Officer of the Fifth Battalion, Texas National Guard, inviting the City Council to be present at the Birthday celebration of said Battalion in Zilker Park on June 8, was received; and the City Clerk was instructed to notify the said Commanding Officer of the Council's acceptance of same.

The following memorandum from J. E. Motheral, City Engineer, submitted by Acting City Manager Seaholm, was received and ordered filed: