

MINUTES OF A MEETING OF THE BOARD OF DIRECTORS OF
TARRANT COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER ONE
HELD IN THE DISTRICT OFFICE IN FORT WORTH, TEXAS, ON
THE 17TH DAY OF MARCH, 1952, AT 2:00 P.M.

The call of the roll disclosed the presence or absence of
Directors, as follows:

PRESENT

Job B. Hogsett
Houston Hill
Dan H. Priest
A. T. Seymour, Jr.

ABSENT

W. L. Pier

Also present were Mr. Marvin C. Nichols of the Engineering Firm of
Freese and Nichols, Consulting Engineers of the District, Mr. Sidney
L. Samuels, General Counsel of the District, and Mr. C. L. McNair,
General Manager of the District.

Director Hogsett acted in his capacity as President, and
Director Priest acted in his capacity as Secretary, whereupon pro-
ceedings were had and done as follows:

1.

Mr. Joe B. Hogsett, President of the Board, who presided
at this meeting stated to the members of the Board that the meeting
was called primarily to consider and discuss a certain contract which
had been tendered to the District by Texas Electric Service Company
in which contract it was recited, among other things, that the Texas
Electric Service Company sought to build, establish and construct on
lands of which it was the owner, adjacent to Eagle Mountain Lake, a
certain Electric Generator Plant, and that it would require the use
of water drawn from Eagle Mountain Lake, and that said contract
should endure for a period of fifty years with an option to renew for

a further period of fifty years, and in which contract it was proposed to pay the District a certain stated fixed price for the use of the raw, untreated water, and to establish adjacent to the waters of the lake certain intake facilities and certain discharge facilities, and to delineate and mark off those parts of the lake where said mechanical facilities would be established.

A copy of said contract so proposed and so tendered to the District is attached hereto and made a part hereof.

General discussion followed the presentation of the proposed contract in which Marvin C. Nichols of the Engineering Firm of Freese and Nichols, Consulting Engineers of the District, and Sidney L. Samuels, General Counsel for the District, participated. Both Mr. Nichols and Mr. Samuels referred to conferences with Mr. Beeman Fisher, Vice President of Texas Electric Service Company, and the exchange of views between the three of them, and amendments that had been suggested in an effort to arrive at an agreement with respect to the terms of the contract.

Mr. Samuels called to the attention of the Board, in which Mr. Nichols concurred, that the primary obligation of the District in the operation of Eagle Mountain Lake was to the City of Fort Worth and to supply its inhabitants with requisite water for all proper domestic uses, and to convey such water into Lake Worth, which was the property of, and had been constructed by the City of Fort Worth, from which lake the water would be drawn for the uses of the inhabitants of the City of Fort Worth and the expansion of the population which would follow in the future.

Some of the other features discussed concerned a fixed price of the water during the entire length of the contractual period, and further that the right to use such water should not be exclusive, and, moreover, that the protection of the water in the river against pollution or contamination from its use by the Texas Electric Service Company should be adequately safeguarded.

It was further proposed by members of the Board that at the end of certain periods of time within the life of the contract, negotiations should be opened once again concerning the price of the water to be used, and that the Texas Electric Service Company protect and save the District harmless against loss of life or limb or damage to property by its mechanical works and facilities in the operation of its plant and in the establishment of its improvements.

At the conclusion of the discussion, it was agreed by the Board to hold the subject in abeyance for a time and that the proposed contract be once again referred to Mr. Marvin C. Nichols, one of the Engineers of the District, and Sidney L. Samuels, the Counsel for the District, to prepare a revision of the contract, which, when revised, to be presented in turn to Texas Electric Service Company, and thereafter the result of such exchange of ideas in the form of a revised contract be presented to the Board for its consideration.

Thereupon, a motion to that effect was submitted and unanimously carried.

2.

There was submitted to the Board by Mr. Marvin C. Nichols, of the Engineering Firm of Freese and Nichols, Consulting Engineers

of the District, in a written communication dated March 17, 1952, a tabulation of the bids that had been received on the construction of the East First Street Water Line. This communication from said Engineers is attached hereto and made a part hereof.

It appeared that the bid of the Bruce Construction Company (which is the firm-name under which H. B. Bruce individually does business) for \$25,020.00 was the lowest and best bid and that in the opinion of the Engineers, such bid should be accepted and the Bruce Construction Company, owned and conducted individually by the said H. B. Bruce, be awarded the contract at their bid of \$25,020.00.

In respect to this matter it was stated by Mr. Nichols, that under the agreement with the City of Fort Worth, the latter should divide the total cost of this project with the District, that is to say the District should pay one-half of the total cost of the project and the City of Fort Worth pay the other half. It was pointed out that the City had heretofore purchased most of the materials required for the project, and that the cost of these materials, together with the Bruce contract, which is essentially a labor contract, would be taken into account in the final determination of the total cost of the project.

Mr. Nichols further advised that it was his intention upon the execution of the contract by Bruce Construction Company and the District to initiate a change-order eliminating item No. 2, "Salvage approximately 430 L. F. of existing 12" C. Iron Pipe in 0 to 6 foot trench" at \$4.00 per linear foot or a total of \$1,720.00. Mr. Nichols pointed out that new 12" cast iron pipe can be bought for \$3.50 per

foot, and that in the light of the Bruce bid of \$4.00 per foot to take up the old 12" pipe, he considered it advisable to negotiate with Mr. Bruce for its elimination; he further stated Mr. Bruce had indicated a willingness to agree to such a change-order, provided he was allowed compensation in the amount of \$300.00 to cover that portion of his moving in and out expense and other overhead, which in making up his bid he had allocated \$300.00 to this Item No. 2.

In the written communication from Mr. Nichols, in which he submitted the matter of this bid, together with figures explanatory to the situation, he added this further statement: Mr. Uel Stephens, Director, Water Department, Fort Worth, concurs in these conclusions and we are advised that he is today recommending to City Manager, W. O. Jones and the City Council that the City pay one-half the final cost of the line.

Thereupon, following the reading of this communication and the award of the bid under the circumstances hereinabove mentioned, (award a total of \$25,020.00, 1/2 of the total cost of the project to be paid by the District and the other 1/2 by the City of Fort Worth), Director Hill moved, seconded by Director Seymour, the approval of the award of the contract to the Bruce Construction Company for the construction of the East First Street Water Line across the Trinity River, that had been recommended by Freese and Nichols in the communication from that firm of this date; and that when the City of Fort Worth has officially agreed to pay fifty (50) per cent of the total cost of the project thereof, and when in addition to such requirements, the Bruce Construction Company

has made and executed a good and sufficient bond with competent surety of 100% of the total amount bid, (\$25,020.00), the President and the Secretary of the Board, be authorized without further action on the part of this Board to execute the contract with said Bruce Construction Company on behalf of the District and to make delivery of same.

The President having submitted the motion to the Board, the same was unanimously adopted, all the directors present voting "aye" thereon.

3.

There being no further business before the Board, the meeting thereupon adjourned.



President.



Secretary.

(PROPOSED CONTRACT)

THE STATE OF TEXAS |
 |
COUNTY OF TARRANT |

THIS CONTRACT AND AGREEMENT, entered into this _____ day of _____, 1952, by and between TEXAS ELECTRIC SERVICE COMPANY, a Texas corporation, acting by and through its duly authorized officers, hereinafter called Company, and TARRANT COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 1, a Texas municipal corporation, acting by and through its duly authorized officers, hereinafter called District,

W I T N E S S E T H:

WHEREAS, Company is an electric utility corporation supplying electric service in Tarrant County, Texas, and other counties within the State of Texas and has generating equipment located in Tarrant County, Texas; and

WHEREAS, Company is planning the installation of additional generating equipment in Tarrant County to meet increasing requirements for electric service; and

WHEREAS, Company has acquired a tract of land in Tarrant County having frontage on and along the shores of Eagle Mountain Lake as described in Exhibit A attached hereto and made a part hereof, and as shown on the map marked Exhibit B attached hereto and made a part hereof, and Company plans to construct a steam electric generating station on such property; and

WHEREAS, District owns real property, a dam and appurtenances, the water and relevant water rights pertaining to a lake that has been created on the Trinity River north of Fort Worth, Texas, such lake being known as Eagle Mountain Lake; and

WHEREAS, District created Eagle Mountain Lake for the conservation and beneficial use of waters of Trinity River; and

WHEREAS, Company desires to use raw, untreated water from Eagle Mountain Lake in the operation of its steam electric generating station to be situated on its land described in Exhibits A and B attached hereto; and

WHEREAS, the use proposed by Company is one of the uses for which Eagle Mountain Lake was created;

NOW, THEREFORE, for and in consideration of the premises and the covenants and obligations hereinafter recited to be mutually kept and performed, the parties contract, covenant and agree as follows:

1.

District grants to Company and its successors and assigns the right to use raw, untreated water and other facilities referred to herein for all the necessary uses and purposes in connection with the operation of the generating station to be erected on Company's property, as hereinafter more specifically provided.

2.

This contract shall continue in effect as long as Company or its assigns shall maintain or operate an electric generating station or stations at or near the site described herein, or needs said water and facilities for the uses and purposes necessary to the operation of such plant within the district, provided the payments hereinafter set out are made by Company to District.

3.

Company shall at its own expense construct all the necessary works suitable and necessary for the withdrawal and return of said water from Eagle Mountain Lake and all necessary

or desirable protective works either on land of Company or on land belonging to District immediately adjacent to Company's land. The design of Company's withdrawal, return and protective works shall be subject to the approval of District's engineer. It is recognized by the parties hereto that the protective works are to be designed and installed for the express purpose of preventing unauthorized persons from entering the water and land areas by boats or otherwise, near the points of withdrawal or return of the water, and that such protection is in the best interest and for the safety of the general public.

4.

The major portion of the water to be withdrawn from Eagle Mountain Lake by Company shall be used for circulation through Company's condensers and heat interchangers and other similar equipment and water so circulated through Company's equipment will be returned to the lake without detrimental chemical additions or other pollution. Company represents that Eagle Mountain Lake will not be subjected to objectionable forms or degree of contamination due to Company's use of the lake and that Company's operations hereunder shall be in compliance with all applicable state law and valid regulations of the District. District shall be privileged to have its duly appointed representatives inspect the generating station and its premises at any and all times to assure District that Company conforms to such covenants.

5.

District, subject to the provisions of Article 7471 R.C.S. of Texas, hereby grants to Company the right

to withdraw from Eagle Mountain Lake and use as much water as may be needed by Company in the operation of its generating stations located on the property described herein. It is expressly understood and agreed, however, that District does not guarantee to keep the level of Eagle Mountain Lake at any particular elevation. *Raw water subject to City*

6.

Company is hereby granted the right to use an area in the lake, mutually agreed upon with District, together with related shoreline and to consider that such area of lake and shore is dedicated to Company's use within the terms of this contract, and Company shall have the right to police and otherwise patrol such area in order to protect the same from trespass or use by the public to the extent that Company shall deem advisable or necessary in order to provide adequate protection to Company's property. Company is expressly granted the right under this agreement to fence off by means of buoys, cable or other appropriate means the defined area of the lake which is hereby agreed upon, such area being shown on Exhibit C and made a part hereof. *Raw water subject to City*

7.

Company represents that it plans to construct a steam electric generating station on the tract herein described for operation in 1954, said station to have an initial capacity of approximately 100,000 kilowatts and that additional units may be added in the future. Should Company for any reason fail to complete an electric generating station by 1954, the rights herein granted shall not be affected thereby so long as the payments herein provided for are made and the contract is not cancelled as hereinafter provided.

Upon the execution of this contract Company has paid District the sum of \$ _____, the receipt of which is hereby acknowledged and confessed by District, and Company obligates itself to pay to District on or before the 31st day of December, 1952 and the 31st day of December of each year thereafter the sum of \$1,000.00 for the purpose of preserving and continuing the rights herein granted until exercised. The payment provided for in this paragraph shall cease upon the completion of said plant and the payments provided for in the next succeeding paragraph shall commence and shall continue as therein provided.

8.

Company shall pay District for the use of the facilities and water and for the rights herein set out as follows:

not clear
(1) \$5,600.00 per year per 100,000 kilowatts of steam-electric generating capacity. Such capacity shall be the sum of the manufacturer's guaranteed nameplate capacity ratings in Kilowatts of all steam-electric generating units installed at said generating station, but not less than 100,000 kw. Payment hereunder shall date from the date the first steam-electric generating unit goes into operation and shall be for the prorata part of the first year and for the full year thereafter. The same proration shall apply for each subsequent unit installed. Payment shall be made on or before the 31st day of December of each year, the first payment to be made on the 31st day of December following the installation and beginning of operation of the first steam-electric generating unit. Payment herein provided for shall cover the use and consumption of water from Eagle Mountain Lake for the purposes necessary in the sole judgment of

Company in the operation and maintenance of the steam-electric generating plant and the necessary facilities in connection therewith.

(2) \$1,000.00 per annum for the right to enclose with a fence built in a manner similar to the sketch shown in Exhibit C and made a part hereof approximately 8 acres of lake area below an elevation of 649 feet above mean sea level and for all other rights referred to in this contract other than the use or consumption of water. This amount is fixed and is not to be increased or decreased during the term of this contract except that should it be necessary or desirable that the enclosed area be changed, such sum shall be adjusted by agreement of the parties hereto. Payment hereunder shall date from the date the first steam-electric generating unit goes into operation and shall be for the pro rata part of the first year and the full year thereafter. Payment shall be made on or before the 31st day of December of each year, the first payment to be made on the 31st day of December following the installation and beginning operation of the first steam-electric generating unit. Payment herein provided for shall cover all rights referred to and provided for in this contract other than the use or consumption of water.

9.

At any time prior to the construction of the works herein described, Company may cancel this contract upon payment to District of District's cost of review of such engineering matters as may have been incurred by District in connection herewith, after which no obligation shall exist against either party in respect to this contract. In the event of abandonment of the generating station or stations Company may at its option

and upon notice in writing given one year in advance, cancel this contract and be relieved of the obligations herein set out.

10. *put back in same condition*

Company agrees to indemnify and hold District harmless from any and all claims or causes of action arising out of Company's use of District's land under control of Company or because of any structures which Company may place in the lake in connection with its withdrawal, return, and protective works. Company further agrees to hold District harmless from any damage to Company's works, land or improvements caused by flood or flowage of water. *from any cause whatsoever*

11.

It is understood that Company shall never be liable and District agrees to hold Company harmless from the claim of the District or of any person, other than the company, persons or entity of any kind or character for taking possession of or for the flooding or submerging of any lands or from the construction or maintenance of District's dam or for any other installation comprising the District's Eagle Mountain Lake Project. It is especially understood and agreed that the acquisition and ownership of said project and the construction and installation or repair of said dam shall be the sole responsibility and liability of District; and that Company, except as herein provided, shall not and will not claim or assert any ownership or rights of any kind in said land or reservoir project except such lands as may be directly acquired by it from owners or from District for its own business uses.

12.

R District grants to Company all necessary easements and rights of way, together with the right of ingress and

egress over, along and across lands owned by District or hereafter acquired by it in said Eagle Mountain Lake Project, such easements and rights of way being limited to those incident and necessary for the construction, installation, operation and maintenance of intake and discharge structures and canals, drainage ditches, telephone and electric transmission and distribution lines and facilities, water and gas or oil fuel pipe lines, and roadways and railroad lines.

13.

Nothing in this agreement, expressed or implied, is intended or shall be construed to confer upon any person or corporation other than the parties hereto, any right, remedy or claim under or by reason of this agreement or any covenant, condition or stipulation hereof, and that all covenants, stipulations, promises and agreements in this agreement contained by or on behalf of Company shall be and are for the sole and exclusive benefit of the parties hereto.

14.

This agreement supersedes all prior agreements between Company and District for the water mentioned herein, and all representations, promises or other inducements, written or verbal, made with respect to the matters herein contained. It is subject to all laws and governmental regulations and is not binding upon Company or District until approved by their respective Board of Directors. No modification of any provision of this agreement shall be binding unless reduced to writing and signed by the parties hereto, and modification of any one or more provisions of this agreement by mutual consent of the parties hereto, whether verbally or in writing, shall not affect any of the remaining provisions hereof not so modified. District covenants that it has full right and

authority to make this contract and that it has complied and will comply with any additional requirements of law related to certified filings or the obtaining of necessary permits from the Board of Water Engineers or other regulatory bodies for the purposes and uses proposed to be made by Company of such water as is proposed hereunder.

15.

There is attached hereto and made a part hereof the following exhibits:

Exhibit A, field notes of the tract now owned by Company referred to herein;

Exhibit B, a sketch of the tract showing water frontage on Eagle Mountain Lake and other boundaries;

Exhibit C, a preliminary drawing of Company's proposed protective works around the withdrawal and return structure.

Exhibit D, a vicinity map of the tract recited herein and surrounding areas.

EXECUTED IN DUPLICATE, this _____ day of _____, 1952.

TEXAS ELECTRIC SERVICE COMPANY

By: _____

TARRANT COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 1

By: _____

FREESE AND NICHOLS
CONSULTING ENGINEERS
407-410 DANCIGER BUILDING
TELEPHONE ED-5431
FORT WORTH, TEXAS

To be attached to
minutes of March 17, 1952.
at 2:00 P.M.

March 17, 1952

Board of Directors
Tarrant County Water Control &
Improvement District No. 1
Danciger Building
Fort Worth, Texas

Gentlemen:

Re: Bids on East First Street
Water Line - Program B

Bids were received on this project at 2:00 P.M., March 11, 1952. Tabulation of bids received is as follows:

	Bruce Construction Company	Ottinger Construction Company	F.S. Oldt Construction Company	Glade Construction Company
Item No. 1	\$23,300.00	\$46,765.00	\$78,000.00	\$82,500.00
Item No. 2	1,720.00	2,902.50	1,290.00	1,182.50
Total	\$25,020.00	\$49,667.50	\$79,290.00	\$83,682.50

We have reviewed these bids and recommend the award to Bruce Construction Company as the lowest and best bid.

The water facility which has to be accomodated to the new floodway channel is a 12" cast iron line. At the request of the City of Fort Worth it is planned to make the replacement a 24" cast iron line. It is the intention that the District will pay for an equal 12" facility and that the City will pay the additional cost. Prior to the receipt of bids we made an estimate of the work covered by Item 1 above. By mutual agreement, the City of Fort Worth has heretofore purchased certain materials which will be furnished the Contractor. The cost of the materials furnished by the City will be a credit on the final amount to be paid by the City. The comparison of our estimates for the project with the Bruce bid and an adjustment in the 12" line estimate in view of the Bruce bid on the 24" line is as follows:

	<u>24"</u>		<u>12"</u>		F & N Estimate Ad- justed to Bruce
	F & N Estimate	Bruce Bid	F & N Estimate	Bid	
Item 1	\$17,255.00	\$23,300.00	\$10,862.50	\$14,664.38*	
Item 2	1,720.00**	1,720.00	1,720.00	1,720.00	
Materials	13,689.42***	13,689.42	2,925.00	2,925.00	
Sub-Total	\$32,664.42	\$38,709.42	\$15,507.50	\$19,309.38	

*F & N estimates for 24" and 12" were prepared on same basis. The adjusted estimate is computed as follows:

$$\frac{\$23,300 \text{ (Bruce Bid)}}{\$17,255 \text{ (F \& N Estimate)}} \times \$10,862.50 \text{ (F \& N Estimate)} =$$

$$1.35 \times \$10,862.50 = \$14,664.38$$

**Not previously estimated by F & N. Bruce bid used in analysis.

***Previously purchased by City to be furnished Contractor.

Our present estimate of the cost of an equal 12" facility is \$19,309.38. The present estimate of the cost of the 24" line as bid by Bruce is \$38,709.42. The ratio is 49.88 per cent which would be the share of the District. For convenience, it is recommended that the District and the City divide the cost equally. For budget purposes, the total cost based on the Bruce bid is as follows:

Item 1-----	\$ 23,300.00
Item 2-----	1,720.00
Materials being furnished by City-----	<u>13,689.42</u>
Sub-Total-----	\$ 38,709.42
Contingencies 5% -----	<u>1,935.47</u>
Sub-Total-----	\$ 40,644.89
Engineering 6%-----	<u>2,438.69</u>
Total Cost as Estimated-----	\$ 43,083.58
City - 1/2-----	\$ 21,541.79
District - 1/2-----	\$ 21,541.79

Mr. Uel Stephens, Director, Water Department, Fort Worth, concurs in these conclusions and we are advised that he is today recommending to City Manager W. O. Jones and the City Council that the City pay 1/2 of the final cost of the line.

Respectfully submitted,

FREESE AND NICHOLS

Marvin C. Nichols

Marvin C. Nichols, District Engineer,
Tarrant County Water Control & Improvement District No. 1

MCN/he