

AN ORDINANCE    **99608**

**ORDERING A SPECIAL ELECTION TO BE HELD ON THE 7<sup>TH</sup> DAY OF MAY, 2005, IN THE CITY OF SAN ANTONIO, TEXAS, IN ACCORDANCE WITH CHAPTER 334, TEXAS LOCAL GOVERNMENT CODE, AS AMENDED, AND OTHER APPLICABLE LAW, ON THE QUESTION OF IMPLEMENTING AND APPROVING CITY COUNCIL RESOLUTION NO. 2004-27-23 WHICH DESIGNATES, AND PROVIDES FOR THE PLANNING, ACQUISITION, ESTABLISHMENT, DEVELOPMENT, CONSTRUCTION, OR RENOVATION OF, AND THE METHOD OF FINANCING FOR, THE *EDWARDS AQUIFER PROTECTION VENUE PROJECT*, MAKING PROVISION FOR THE HOLDING OF SAID ELECTION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of San Antonio, Texas ("City Council") desires to provide for the planning, acquisition, establishment, development, construction or renovation of a venue project ("Venue Project") as authorized by, and defined in, Chapter 334, Texas Local Government Code, as amended ("Chapter 334"), which includes the acquisition of property for a conservation easement or open-space preservation program intended to protect water in the Edwards Aquifer; and

**WHEREAS**, if the Venue Project described herein is approved by the voters, the City may use money received from the sales and use tax approved by the voters to reimburse or pay the costs of planning, acquiring, establishing, developing, constructing, or renovating such approved Venue Project, or pay the principal and interest on, and other costs relating to bonds or other obligations issued by the City to finance the Venue Project; and

**WHEREAS**, pursuant to the requirements of Chapter 334, Section 334.021, the City Council adopted Resolution No. 2004-27-23 (the "Venue Project Resolution") on August 5, 2004, designating a Venue Project and designating the method of financing for such Venue Project; and

**WHEREAS**, Chapter 334, Section 334.024, authorizes the City to order an election on the question of approving and implementing this Venue Project Resolution; and

**WHEREAS**, pursuant to the requirements of Chapter 334, Section 334.022, the City, before calling such election, sent a copy of the Venue Project Resolution to the State Comptroller, who has (1) performed an analysis to determine if approval and implementation of the Venue Project Resolution will have a significant negative fiscal impact on state revenue, and (2) provided to the City written notice of the results of the analysis; and

**WHEREAS**, the Comptroller, by letter dated August 11, 2004, determined, and the City has received written confirmation thereof, that implementation of the Venue Project Resolution will not have a significant negative impact on state revenue; and

**WHEREAS**, the City Council may now order an election on the question of approving and implementing the Venue Project Resolution which designates, and provides for the planning, acquisition, establishment, development, construction, or renovation of, and the method of financing for the *EDWARDS AQUIFER PROTECTION VENUE PROJECT*; and

**WHEREAS**, the City Council hereby finds that an election should be held under the authority of Chapter 334 on the question of implementing and approving the Venue Project Resolution and imposing a sales and use tax for the purposes hereinafter identified; and

**WHEREAS**, the City anticipates entering into a Contract for Election Services with the Bexar County Elections Administrator under the authority of Subchapter D of Chapter 31, Texas Election Code, for the conduct of the election ordered hereby, which Contract for Election Services will be approved by the City Council at a later date hereafter; and

**WHEREAS**, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1. DATE; OFFICIAL PROPOSITION.** An election shall be held on Saturday, the 7<sup>th</sup> day of May, 2005, in accordance with the laws of the State of Texas, including Chapter 334, Texas Local Government Code, as amended, the Texas Election Code, as amended, and the provisions of the Charter of the City of San Antonio. The official ballots for said election shall be prepared in accordance with Chapter 334 and the Texas Election Code and at said election the following PROPOSITION shall be submitted in accordance with the law:

**THE EDWARDS AQUIFER PROTECTION VENUE PROJECT PROPOSITION**

Shall the City Council of the City of San Antonio, Texas, be authorized to implement Resolution No. 2004-27-23 (the "Venue Project Resolution"), which provides for the planning, acquisition, establishment, development, construction, or renovation of, and method of financing for the "**Edwards Aquifer Protection Venue Project**," which includes the acquisition of property for a conservation easement or open-space preservation program intended to protect water in the Edwards Aquifer, and to impose a sales and use tax at the rate of one-eighth of one percent (1/8 of 1%) for the purpose of financing the "**Edwards Aquifer Protection Venue Project**" in an amount not to exceed \$90 million, (including costs of issuance and interest on bonds or other obligations, if any)?

**SECTION 2. FORM OF BALLOTS.** The official ballots for said election shall be prepared in accordance with Chapter 334, Texas Local Government Code and the Texas Election Code so as to permit the electors to vote "FOR" or "AGAINST" the aforesaid PROPOSITION, with the ballots to contain such provisions, markings, and language as required by law, and with such PROPOSITION to be expressed substantially as follows:

**THE EDWARDS AQUIFER PROTECTION VENUE PROJECT PROPOSITION**

FOR }                    AUTHORIZING THE CITY OF SAN ANTONIO TO PROVIDE FOR THE PLANNING, ACQUISITION, ESTABLISHMENT, DEVELOPMENT, CONSTRUCTION, OR RENOVATION OF THE "**EDWARDS AQUIFER PROTECTION VENUE PROJECT**" WHICH INCLUDES THE ACQUISITION OF PROPERTY FOR A CONSERVATION EASEMENT OR OPEN-SPACE PRESERVATION PROGRAM INTENDED TO PROTECT WATER IN THE EDWARDS AQUIFER, AND TO IMPOSE A SALES AND USE TAX AT THE RATE OF ONE-EIGHTH OF ONE PERCENT (1/8 OF 1%) FOR THE PURPOSE OF FINANCING THE "**EDWARDS AQUIFER PROTECTION VENUE PROJECT**" IN AN AMOUNT NOT TO EXCEED \$90 MILLION (INCLUDING COSTS OF ISSUANCE AND INTEREST ON BONDS OR OTHER OBLIGATIONS, IF ANY)?

AGAINST }

**SECTION 3. PRECINCTS AND POLLING PLACES; TIME.** Said election shall be held as prescribed by law, in the City of San Antonio, at the following voting places in the several precincts of the City of San Antonio, as listed in **Attachment I**, between the hours of 7:00 o'clock a.m. and 7:00 o'clock p.m. at those locations listed in **Attachment II**. Attachments I and II are attached hereto and incorporated herein for all purposes.

**SECTION 4. EARLY VOTING.** Early voting by personal appearance shall be conducted at the branch offices as listed in **Attachment III**, which is attached hereto and incorporated herein for all purposes, during the period of early voting, commencing Wednesday, April 20, 2005 and ending Tuesday, May 3, 2005, during the hours hereby indicated in **Attachment III**. Electors may cast their early vote by mail, and the early voting clerk's mailing address to which ballot applications and ballots voted by mail shall be sent to, is as follows:

Cliff R. Borofsky  
Bexar County Elections Administrator  
203 W. Nueva 3.61  
San Antonio, TX 78207  
Attention: Early Voting Clerk

**SECTION 5. VOTING SYSTEM.** Voting at said election for election day voting shall be done by the use of the iVotronic™ touch screen voting system, as hereby determined by the City Clerk of the City of San Antonio and the Bexar County Elections Administrator. The equipment shall be placed at the election day polling locations listed in **Attachment II**. The City Clerk and the Bexar County Elections Administrator further determine that AIS 650 Tabulators and paper ballots shall be used for the casting of early votes by mail and for the casting of provisional ballots during early voting and on election day. Voting at said election for early voting by personal appearance shall be done by the use of the iVotronic™ touch screen voting system. The equipment shall be placed at branch offices as listed in **Attachment III**, established for the purpose of conducting early voting by personal appearance.

**SECTION 6. CONTRACT FOR ELECTION SERVICES.** The City Council will hereafter contract with the Bexar County Elections Administrator to conduct this election, which contract will be in the form of an Elections Services Contract to be hereafter approved by the City Council under authority of the Texas Election Code. Said contract shall be considered by City Council at a subsequent meeting, as evidenced by passage of an ordinance.

**SECTION 7. NOTICE.** (a) *Form of Notice of Election.* The City Clerk of the City of San Antonio is hereby authorized and directed to prepare a form of the Notice of Election in both English and Spanish, the contents of which comply with the requirements of Section 4.004 of the Texas Election Code (and other applicable law), and include at a minimum the nature and date of the election, the form of the proposition included in Section 1 of this Ordinance, the form of the ballot proposition included in Section 2 of this Ordinance, the location of each election day and early voting polling place, the locations, dates, and times of temporary branch locations of early voting, the hours the polls will be open, and any other information required by other law, and with such variations permitted by applicable law.

(b) *Method of Giving Notice.* Notice of said election shall be given by posting a copy of said Notice of Election, both in English and in Spanish, not later than the 21<sup>st</sup> day before the date set for said election on the bulletin board used for posting notices of the meetings of the City Council of the City. Notice of said election shall also be given by publishing said Notice of Election, both in English and in Spanish, at least once, not earlier than the 30<sup>th</sup> day or later than the 10<sup>th</sup> day before Election Day, in a newspaper of general circulation published in the City of San Antonio. It is hereby found and declared that the *San Antonio Express-News* is a newspaper of general circulation within the City.

**SECTION 8. ELECTORS; BILINGUAL ELECTION MATERIALS.** All resident, qualified electors of the City shall be permitted to vote at the election, and on the day of the election such electors shall vote at the designated polling place. The election shall be held and conducted in accordance with the provisions of the Texas Election Code, as amended, and the provisions of Chapter 334 of the Texas Local Government Code, as amended, and as may be required by any other law. All election materials and proceedings shall be printed in both English and Spanish.

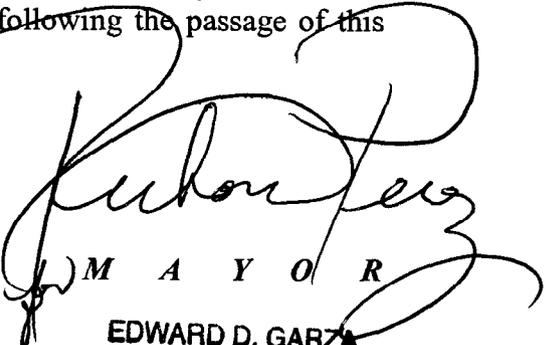
**SECTION 9. INCORPORATION OF RECITALS.** The statements contained in recitals included in the preamble of this Ordinance are hereby found to be true and correct, and such recitals are hereby incorporated into, and made a part of, this Ordinance for all purposes and are adopted as part of the judgment and findings of the City Council.

**SECTION 10. SEVERABILITY.** If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

**SECTION 11. EFFECTIVE DATE.** Pursuant to the City of San Antonio City Charter, this Ordinance takes effect August 29, 2004, which is the tenth day following the passage of this Ordinance.

PASSED AND APPROVED this 19<sup>th</sup> day of August, 2004.

ATTEST: *Silvia M. Vaca*  
City Clerk

  
M A Y O R  
EDWARD D. GARZA

APPROVED AS TO FORM: *Andrew Martin*  
City Attorney