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CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
CITY MANAGER'S OFFICE

AGENDA ITEM NO.

TO: Mayor and City Council

FROM: Melissa Byrne Vossmer, Assistant City Manager

THROUGH: Terry M. Brechtel, City Manager

COPIES: Christopher J. Brady, Assistant City Manager; Thomas G. Wendorf, P.E., Director of Public Works; Malcolm Matthews, Director of Parks and Recreation; Peter Zanoni, Interim Director, Office of Management and Budget; Milo Nitschke, Director of Finance; Andrew Martin, City Attorney

SUBJECT: Resolution of Support—Sales Tax Use for Purchase of Land over the Edwards Aquifer

DATE: August 5, 2004

SUMMARY AND RECOMMENDATIONS

Consider adopting a resolution for support directing staff to draft a letter to the State Comptroller requesting a determination of whether the passage of an 1/8th cent sales tax for the purchase of land and conservation easements over the Edwards Aquifer would negatively impact the state's sales taxes.

Staff recommends approval of this resolution.

BACKGROUND

On July 26 a six signature Council Consideration Request initiated by Councilmembers Hall and Flores was received, copy attached. The memo directed staff to bring forward for Council consideration, no later than August 5th, a resolution as required by Texas Government Code, Chapter 334, asking the State Comptroller for a determination as to whether the proposed Aquifer Protection Initiative, a dedication of \$90 million through a sales tax of 1/8th cents for the purchase of land and conservation easements over the Edwards Aquifer, will have a negative impact on any state sales taxes. It is anticipated that the use of conservation easements will allow for a cost effective means of protecting land over the aquifer.

In addition, staff was directed to place on the City Council "A" Session agenda for August 12, 2004, an ordinance calling for a February 5, 2005 election for the Aquifer Protection Initiative. The Council Consideration Request is on the August 4 agenda of the Governance Committee. However, to meet the timeline identified, staff has placed this item on the Council agenda for consideration.

To provide some background, on May 6, 2000 San Antonio voters approved the collection of a 1/8th cent sales tax to collect up to \$65 million dollars for the purchase of property to create linear parks along the Leon and Salado Creeks and to purchase sensitive land over the Edwards Aquifer. The collection of the 1/8th cent approved in May 2000 was discontinued on July 1, 2004 as the goal of collection of up to \$65 million dollars had been reached. The funds raised from the approved 1/8th cent sales tax were to be allocated as follows:

- \$20 million to create linear parks along the Leon and Salado Creeks.
- \$45 million to purchase sensitive land over the Edwards Aquifer
 - o \$40.5 million for land purchases and appropriate development
 - o \$ 4.5 million escrow for maintenance and operations of newly acquired land

Immediately following approval by the voters, a process was developed to begin to identify land for acquisition. This was done by establishing a Scientific Evaluation Team (SET) which created a spatial model to identify potential land for acquisition based upon outlining and prioritizing the characteristics of areas that were most likely to contain recharge features and geological land features which contribute to the aquifer. A rating system was created and applied based on three value groups, namely: biological – 20%, watershed – 30% and geological – 50%. This rating system was applied to property over the Edwards Aquifer in Bexar County. This model will be utilized if additional land were to be purchased. In addition, due to a change in legislation in 2001, additional land could, in the future, be purchased outside of Bexar County as part of the proposed Aquifer Protection Initiative.

With Council approval of this resolution, staff will immediately forward to the State Comptroller a letter, copy attached, requesting a determination as to whether the proposed Aquifer Protection Initiative, dedicating up to \$90 million through a sales tax of 1/8th cent for the purchase of land and conservation easements over the Edwards Aquifer, will have a negative impact on any state sales taxes. Staff has taken the initiative to inform the State Comptroller that such a determination may be requested in the near future. It should be noted that the ordinance calling the election for February 5, 2005 cannot be approved until written determination has been received from the Comptroller and is made part of the ordinance.

POLICY ANALYSIS

Approval of this resolution continues the past practice to provide a mechanism for acquisition and protection of land over the Edwards Aquifer, the sole source of drinking water for the City of San Antonio.

FISCAL IMPACT

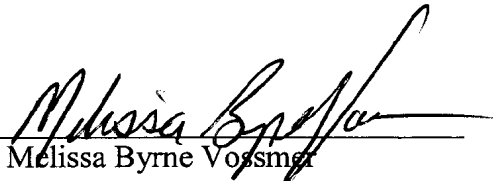
Year to date, total land purchased or received under the original approved proposition totals 7,566.883 acres at a cost of \$37,910,520. The cost for a special election in

February 2005 is estimated to be approximately \$575,000 as it is anticipated the cost will be shared with the Alamo Community College District and the San Antonio River Authority.

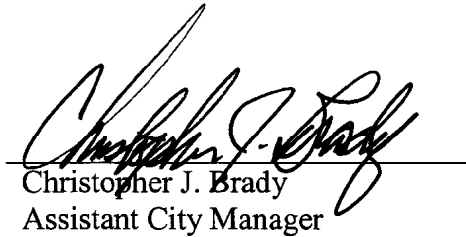
It is estimated that it would take approximately 6+ years to collect the proposed \$90 million, at which time the 1/8th cent for this purpose would be terminated. If approved, the property acquired through this tax will need to be monitored and maintained in the future. As outlined above, the original Proposition 3 program recognized the need to provide operation and maintenance funds for care of the acquired property at a level of 10%. It is anticipated that a similar percentage will be made available for this purpose from the proceeds.

COORDINATION

The item has been coordinated with the Finance Department, City Attorney's Office and the Parks and Recreation Department.




Melissa Byrne Vossmer
Assistant City Manager



Christopher J. Brady
Assistant City Manager

Approved:



Terry M. Brechtel
City Manager

**CITY OF SAN ANTONIO
OFFICE OF THE CITY COUNCIL**

COUNCIL CONSIDERATION REQUEST

TO: Mayor and Council Members
FROM: Councilman Art A. Hall, District 8; Councilman Roger O. Flores, District 1
COPIES: Terry Brechtel, City Manager; Melissa Byrne Vossmer, Assistant City Manager; Christopher Brady, Assistant City Manager; Malcolm Matthews, Director Parks Department; Edna Ortega, Creekways Coordinator; Andrew Martin, City Attorney; Leticia Vacek, City Clerk; Gayle McDaniel, Assistant to Council, Assistants to the Mayor; File
SUBJECT: Extension of Proposition 3, The Purchase of Land Over the Edwards Aquifer Recharge Zone

DATE: July 23, 2004

In May 2000, voters of the City of San Antonio united together to pass "Proposition 3," which was a dedication of \$65 million through a sales tax of 1/8 cent for the purchase of land over the Edwards Aquifer and the purchase of land on Leon and Salado Creek. The amount of \$65 million has been reached and this 1/8 cent sales tax is again available for dedication, along with another 3/8 cent sales tax that was available prior, for a total of 1/2 cent.

In June 2004, VIA called its election for a sales tax of 1/4 cent for transportation and infrastructure needs, leaving the remaining 1/4 cent sales tax available for dedication.

With the strong showing of support we have seen, not only from our districts but in the entire city, we are requesting Council concurrence, to direct staff, to place on the City Council "A" Session agenda no later than August 5th a resolution, as required by Texas Government Code Chapter 334, asking the State Comptroller for a determination as to whether the proposed Aquifer Protection Initiative, a dedication of \$90 million through a sales tax of 1/8 cent for the purchase of land and conservation easements over the Edwards Aquifer, will have a negative impact on any state sales taxes. We also direct staff to place on the City Council "A" Session agenda for August 12, 2004 an ordinance calling for a February election for the Aquifer Protection Initiative.

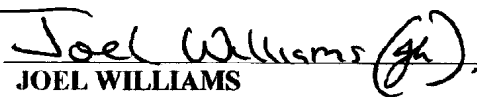
Your favorable consideration of this request is most appreciated.



ART A. HALL
DISTRICT 8


ROGER O. FLORES
DISTRICT 1


RECEIVED
CITY OF SAN ANTONIO
CITY CLERK
2004 JUL 26 A 11:33


EDWARD D. GARZA
MAYOR

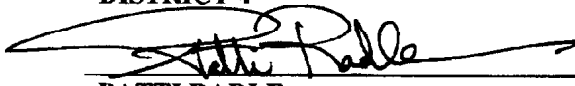

JOEL WILLIAMS
DISTRICT 2


ENRIQUE M. BARRERA
DISTRICT 6

RON H. SEGOVIA
DISTRICT 3


JULIAN CASTRO
DISTRICT 7

RICHARD PEREZ
DISTRICT 4


PATTI RADLE
DISTRICT 5

CARROLL SCHUBERT
DISTRICT 9


CHIP HAASS
DISTRICT 10

LTRHEAD FOR CITY MANAGER

August 6, 2004

VIA FACSIMILE (512) 475-1559

The Honorable Carole Keeton Strayhorn
Comptroller of Public Accounts
Attn: Mr. John Heleman and Ms. Shannen Owens
Revenue Estimating Division
111 E. 17th Street
Austin, Texas 78701

RE: CITY OF SAN ANTONIO VENUE PROJECT; RESOLUTION SUBMISSION UNDER
CHAPTER 334, TEXAS LOCAL GOVERNMENT CODE

Dear Comptroller Keeton Strayhorn:

The City of San Antonio (the "City") plans to develop and finance a proposed "Venue Project" under Chapter 334, Texas Local Government Code; specifically, it plans to acquire land for a conservation easement or an open space preservation program under Section 334.001(4)(F) of that Chapter.

The City Council of the City of San Antonio designated the Venue Project by Resolution, enclosed as Attachment I, adopted on Thursday, August 5, 2004, and plans to call an election to be held on February 5, 2005, in accordance with the provisions of Chapter 334 to approve the Venue Project and a 1/8 of 1% sales and use tax to finance the Venue Project.

The City of San Antonio requests a fiscal impact analysis from your office as required by Section 334.022 of the Texas Local Government Code. Please let us know if you need any other information in order to determine if the approval and implementation of the Venue Project Resolution will have a significant negative fiscal impact on state revenue.

Please note that the proposed sales tax election will ask the voters to approve a 1/8¢ "Chapter 334" sales and use tax. A tax in the same amount was approved by the voters in May, 2000 for the same primary purpose. In early 2000, your office conducted a similar fiscal review for a 1/8¢ sales and use tax increase and found no negative state fiscal impact.

Thank you for your consideration and assistance in this matter. Should you have any questions, please do not hesitate to contact Melissa Byrne Vossmer, Assistant City Manager, at 210-207-7080.

Sincerely yours,

Terry Brechtel,
City Manager

A RESOLUTION

OF THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS, DESIGNATING AS A "VENUE PROJECT" UNDER CHAPTER 334 OF THE TEXAS LOCAL GOVERNMENT CODE, A PROJECT TO ACQUIRE PROPERTY FOR A CONSERVATION EASEMENT OR AN OPEN SPACE PRESERVATION PROGRAM INTENDED TO PROTECT WATER IN THE EDWARDS AQUIFER; AUTHORIZING THE PLANNING, ACQUISITION, ESTABLISHMENT, DEVELOPMENT, CONSTRUCTION, OR RENOVATION OF THIS VENUE PROJECT; DESIGNATING THE METHOD OF FINANCING TO BE USED TO FINANCE THIS VENUE PROJECT; CONTAINING OTHER PROVISIONS RELATED TO AUTHORIZING THIS VENUE PROJECT; AND PROVIDING FOR AN IMMEDIATE 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 is described in Section 2 below; and

WHEREAS, if the Venue Project described herein is approved by the voters under Chapter 334, 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, Chapter 334, Section 334.024, authorizes the City to order an election on the question of approving and implementing this Resolution and approving this Venue Project and the method of financing; and

WHEREAS, Chapter 334, Section 334.022, requires the City, before calling an election to send a copy of this Resolution to the State Comptroller, who shall before the 15th day after the date she receives a copy of this Resolution, (1) perform an analysis to determine if approval and implementation of this Resolution will have a significant negative fiscal impact on state revenue, and (2) provide the City written notice of the results of the analysis; and

WHEREAS, Chapter 334, Section 334.022, further provides that if the Comptroller determines that implementation of this Resolution will have a significant negative fiscal impact on state revenue, the written analysis required thereunder must include information on how to change this Resolution so that implementation will not have a significant negative fiscal impact on state revenue; and

WHEREAS, Chapter 334 provides that if the Comptroller determines that implementation of this Resolution will not have a significant negative impact on state revenue or if the Comptroller has not provided the analysis by the 30th day, the City Council may order an election on the question of approving and implementing this Resolution; and

WHEREAS, the City Council further desires to authorize and direct the City Manager to forward a copy of this Resolution to the State Comptroller as required by Section 334.022 for her review and analysis as prescribed therein, prior to the City Council's consideration of an order calling an election under Chapter 334; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution 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:**

SECTION 1. INTENTION TO PROVIDE FOR A VENUE PROJECT. The City Council does hereby adopt this Resolution to provide for the planning, acquisition, establishment, development, construction, or renovation of a "Venue Project" as defined by Chapter 334, and as described herein, and to provide for the financing thereof by the imposition of a sales and use tax at the rate of one-eighth of one percent (1/8 of 1%), upon approval of the Venue Project, and the method of financing thereof, by the voters of the City at an election to be called by the City Council.

SECTION 2. DESIGNATION OF THE VENUE PROJECT. The City Council does hereby designate the following project authorized by Section 334.001(4)(F) of Chapter 334 as a "Venue Project" and hereby declares its intention to finance and to provide for the planning, acquisition, establishment, development, construction, or renovation thereof, all pursuant to authority granted by Chapter 334 (referred to herein as the Edwards Aquifer Protection Venue Project"):

The acquisition of property for a conservation easement or open-space preservation program intended to protect water in the Edwards Aquifer.

SECTION 3. DESIGNATION OF THE METHOD OF FINANCING FOR THE VENUE PROJECT. The City Council does hereby designate and determine that the method of financing for the Edwards Aquifer Protection Venue Project, if approved by the voters, shall be through the imposition of a sales and use tax at the rate of one-eighth of one percent (1/8 of 1%).

SECTION 4. AUTHORIZING AND DIRECTING CITY MANAGER TO SUBMIT RESOLUTION TO STATE COMPTROLLER. The City Council does hereby authorize and direct the City Manager to submit a copy of this Resolution to the State Comptroller, as required by the provisions of Section 334.022 of the Code, for her review and analysis as required by the provisions of such Section. Upon receipt of notice from

the Comptroller that she has determined that implementation of this Resolution will not have a significant negative impact on state revenue, the City Manager is authorized and directed to bring before the City Council for its consideration an ordinance calling an election pursuant to the authority and requirements of Chapter 334.

SECTION 5. INCORPORATION OF RECITALS. The City Council hereby finds that the statements set forth in the recitals of this Resolution are true and correct, and the City Council hereby incorporates such recitals as a part of this Resolution.

SECTION 6. SEVERABILITY. If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 7. EFFECTIVE DATE. This ordinance shall take effect immediately, upon passage by eight (8) affirmative votes.

PASSED AND APPROVED this ____ day of _____, 2004.

M A Y O R

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney