

CITY OF UHLAND, TEXAS

ORDINANCE NO. 82

AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD IN THE CITY OF UHLAND, TEXAS, IN CONJUNCTION WITH THE GENERAL ELECTION OF CITY OFFICERS, ON MAY 10, 2008, TO SUBMIT A PROPOSITION ON THE QUESTION OF ADOPTION OF A SALES AND USE TAX AT THE RATE OF ONE-HALF OF ONE PERCENT UNDER THE PROVISIONS OF SECTION 4B OF THE DEVELOPMENT CORPORATION ACT OF 1979; MAKING PROVISIONS FOR THE CONDUCT OF THE ELECTION AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO SUCH ELECTION; AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Uhlund, Texas ("City Council") finds that it is in the best interest of the citizens of the City of Uhlund ("City") to call and hold a referendum election ("Election") in the City for the purpose of adopting a Section 4B sales and use tax pursuant to the Development Corporation Act of 1979 (the "Act"); and

WHEREAS, the City Council hereby finds that the City is eligible to adopt a Section 4B sales and use tax pursuant to the Act; and

WHEREAS, the City Council finds that the revenue generated by the 4B tax will enable the City to fund projects and programs that bring additional revenue and employment opportunities to the community; and

WHEREAS, the City Council has determined that an election on the next uniform election date is May 10, 2008, will constitute an appropriate date for the Election.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UHLAND, TEXAS:

Section 1. The statements made in the foregoing preamble and recitals being true and correct are hereby made a part of this Ordinance for all purposes and are adopted as findings of fact.

Section 2. A special election ("Election") shall be held in and throughout the City of Uhlund, Texas on May 10, 2008, in conjunction with the City of Uhlund general election for the election of officers to be held on the same date, such date being a uniform election date as defined in Section 41.001 of the Texas Election Code, as amended

("Election Code"). At the Election the following proposition ("Proposition") shall be submitted to a referendum vote of the qualified voters of the City:

Proposition

The adoption of a Section 4B sales and use tax at the rate of one-half of one percent to undertake projects as described in Section 2(11) and Section 4B of Article 5190.6 of Texas Revised Civil Statutes (also known as the Development Corporation Act of 1979), as may be amended from time to time, including but not limited to projects for the promotion of professional and amateur athletics and sports including stadiums, ball parks, auditoriums, projects related to entertainment, convention, tourist, and exhibition facilities, amphitheaters, concert halls, and public parks, park facilities and events, open space improvements, military facilities, including closed or realigned military bases, primary job training facilities for use by institutions of higher education, research and development facilities, regional or national corporate headquarters facilities, museums and related stores, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, recycling facilities, projects to promote new or expanded business enterprises that create or retain primary jobs, public safety facilities, streets and roads, drainage, and related improvements, demolition of existing structures, development and expansion of affordable housing, the development, improvement, expansion, or maintenance of facilities relating to the operation of commuter rail, light rail, or motor buses, the development or expansion of airport facilities including hangars, airport maintenance and repair facilities, air cargo facilities, and related infrastructure located on or adjacent to an airport facility, and targeted infrastructure and any other improvements, expenditures, or facilities that are related to any of the above projects, and any other project that the board determines will promote new or expanded business enterprises or is otherwise authorized by Article 5190.6 of Texas Revised Civil Statutes, and the maintenance and operations expenses for any of the above described projects.

Section 3. Eligible Voters. All resident, qualified voters of the City shall be eligible to vote at the Election.

Section 4. Polling Place. The polling place for the Election is hereby designated to be the Uhland Community Center, located at 15 N. Old Spanish Trail, Uhland, Texas 78640. The polling place shall be open from 7:00 a.m. to 7:00 p.m. on the date of the Election.

Section 5. Contract for Election Services Approved. The Contract for Election Services for Hays County and the City of Uhland (the "Agreement") is attached hereto as Exhibit "A" and incorporated herein for all purposes is hereby approved and the

Mayor is authorized to execute the Agreement. In the event of conflict between this Ordinance and the Agreement, the Agreement shall control.

Section 6. Proposition. The Proposition shall be set forth substantially in the following form, so as to permit the electors to vote "FOR" or "AGAINST" the Proposition, to-wit:

FOR

AGAINST

The adoption of a Section 4B sales and use tax at the rate of one-half of one percent to undertake projects as described in Section 2(11) and Section 4B of Article 5190.6 of Texas Revised Civil Statutes (also known as the Development Corporation Act of 1979), as may be amended from time to time, including but not limited to projects for the promotion of professional and amateur athletics and sports including stadiums, ball parks, auditoriums, projects related to entertainment, convention, tourist, and exhibition facilities, amphitheatres, concert halls, and public parks, park facilities and events, open space improvements, military facilities, including closed or realigned military bases, primary job training facilities for use by institutions of higher education, research and development facilities, regional or national corporate headquarters facilities, museums and related stores, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, recycling facilities, projects to promote new or expanded business enterprises that create or retain primary jobs, public safety facilities, streets and roads, drainage, and related improvements, demolition of existing structures, development and expansion of affordable housing, the development, improvement, expansion, or maintenance of facilities relating to the operation of commuter rail, light rail, or motor buses, the development or expansion of airport facilities including hangars, airport maintenance and repair facilities, air cargo facilities, and related infrastructure located on or adjacent to an airport facility, and targeted infrastructure and any other improvements, expenditures, or facilities that are related to any of the above projects, and any other project that the board determines will promote new or expanded business enterprises or is otherwise authorized by Article 5190.6 of Texas Revised Civil Statutes, and the maintenance and operations expenses for any of the above described projects.

Section 7. Conduct of Election. The Election shall be held and conducted in accordance with the applicable provisions of the Texas Election Code, Texas Tax Code, Subchapter E of Chapter 321, the Act, and other provisions of law as may be required.

Section 8. Early Voting.

a. Early voting by personal appearance. Early voting by personal appearance shall commence April 28, 2008 and shall continue until May 6, 2008 at the location and times designated in the Agreement. On at least two days during the early voting period, the location for early voting shall be open for at least twelve (12) hours.

The two (2) days on which the early voting will be conducted for at least twelve (12) hours shall be: Tuesday April 29, 2008 and Tuesday, May 6, 2008..

b. Early voting by mail. Diana T. Woods, the City Administrator/City Secretary for the City of Uhland is hereby designated as Early Voting Clerk for the Election. The following are designated as deputy early voting clerks: Priscilla Chapa, Municipal Clerk, City of Uhland, and Joyce Cowan, Hays County Elections Administrator, or her designee(s). Applications for early voting by mail may be delivered to the Early Voting Clerk at the following address: Early Voting Clerk, 15 N. Old Spanish Trail, Uhland Texas 78640 not earlier than March 11, 2008 and not later than close of business on May 2, 2008. Early voting by ballots shall be mailed to the Early Voting Clerk at the same address.

c. Early voting by Ballot Board. Early voting, both by personal appearance and by mail shall be canvassed by the Early Voting Ballot Board, which is hereby created. The Presiding Election Judge and Alternate Presiding Election Judge shall serve as the presiding officer and alternate presiding officer, respectively, of the Early Voting Ballot Board. The other election officers serving at the Election shall serve as the other members of the Early Voting Ballot Board.

Section 9. Appointment of Election Judge and Alternate Election Judge. The Presiding Election Judge and Alternate Presiding Judge shall be appointed by the Hays County Elections Administrator as authorized by Chapter 271 of the Code.

Section 10. Method of Voting. The Hart InterCivic eSlate (Direct Recording Electronic Voting System) shall be used for voting by personal appearance on Election Day and the Hart InterCivic eSlate (Direct Recording Electronic Voting System) for early voting by personal appearance. The City Council hereby adopts The Hart InterCivic eSlate (Direct Recording Electronic Voting System) DRE for early voting and Election Day. The voting systems are being provided by Hays County under the terms of the agreement. All expenditures necessary for the conduct of the Election, the purchase of materials therefore, and the employment of all election officials are hereby authorized, and shall be conducted in accordance with the Texas Election Code.

Section 11. Governing Law and Qualified Voters. The election shall be held in accordance with the Constitution of the State of Texas and the Texas Election Code, and all resident qualified voters of the City shall be eligible to vote at the Election.

Section 12. Publication and Posting of Notice of Election. Notice of the Election shall be given as required by the Texas Election Code.

Section 13. Submissions to the United States Justice Department. The City Secretary of the City of Uhland or her designee is authorized to make such submissions as are necessary to the United States Justice Department to seek pre-clearance for any changes in voting practices. The City Secretary shall prepare a submission, on behalf of the City of Uhland, to the United States Department of Justice for preclearance of the

election procedures and polling places, pursuant to the Voting Rights Act of 1965, as amended.

Section 14. Delivery of Returns. The counting station manager or his representative shall deliver timely cumulative reports of the Election results as tabulated. The manager shall be responsible for releasing unofficial cumulative totals from the Election to the City of Uhland, candidates, press, and general public by distribution of hard copies at the central counting station.

Section 15. Necessary Actions. The Mayor and the City Secretary of the City of Uhland, in consultation with the City Attorney, are hereby authorized and directed to take any and all actions necessary to comply with the provisions of the Code in carrying out and conducting the Election, whether or not expressly authorized herein.

Section 16. Effective Date. This Ordinance shall be effective upon its adoption.

PASSED AND APPROVED this 6th day of February, 2008.

CITY OF UHLAND

Daniel R. Heideman
Daniel R. Heideman, Mayor

ATTEST:

Diana T. Woods
Diana T. Woods, City Administrator/City Secretary

APPROVED AS TO FORM:

Cary L. Bovey
Cary L. Bovey, City Attorney

4. Procure, prepare, and distribute election equipment, transport equipment to and from the polling places, and issue election supplies to the precinct judges.
5. Supervise the conduct of early voting and supply personnel to serve as deputy early voting clerks.
6. Assist in providing general overall supervision of the general and special election and provide advisory services in connection with the decisions to be made and actions to be taken by officers of the City who are responsible for holding the general and special election.
7. Other incidental related services as may be necessary to effectuate the general and special election.
8. Remit to the City a detailed listing of expenses incurred to conduct the general and special election for payment.

NOTHING IN THIS AGREEMENT IS INTENDED TO LIMIT THE DISCRETION OF THE OFFICER IN THE EXECUTION OF HER DUTIES. IT IS FOR THE OFFICER, IN THE EXERCISE OF REASONABLE DISCRETION, TO DETERMINE HOW THE EFFORTS OF HER OFFICE SHOULD BE ALLOCATED THROUGHOUT THE COUNTY.

Article 2. CITY'S DUTIES AND SERVICES. The City agrees to perform the following duties:

1. Prepare and adopt all orders and resolutions necessary to conduct the general and special election.
2. Prepare and publish all required election notices.
3. Deliver to the Officer as soon as possible, but not later than legally required before the general and special election, the issues that are to be printed on the ballot with the exact form, wording and spelling that is to be used.
4. Provide the services necessary to translate any election documents into Spanish.
5. Pay any additional costs incurred by the Officer if a recount for said general or special election is required, or the general or special election is contested in any manner.
6. Provide technical assistance requested by the Officer.

Article 3. ADMINISTRATION. The Officer will be responsible for administering this Agreement and providing supervisory control and command over all agents, officers, and other personnel performing services pursuant to this Agreement. The contact person and representative for the Elections Office is the Officer, or her designee, and the contact person and representative for the City is Diana T. Woods, City Administrator/City Secretary.

Article 4. COST OF SERVICES. The City shall reimburse the Officer for all expenses incurred for any election conducted by the Officer and, in addition, the City shall pay an administrative fee of **10%** of the total cost of that election. In the event the services are provided for a joint election, the cost shall be equally prorated between the participating entities. A runoff election shall be treated as a separate election. Within 20 days of the completion of the election, the Officer shall submit a statement to the City listing all of the expenses and the administrative fee. The City shall pay the total amount within 45 days of the election.

Article 5. LIABILITY. The Officer can hold the City responsible for any actual expenses for repairs for any damage that occurs while the DRE machines are in the City's possession that are not covered under the vendor's warranty.

Article 6. GENERAL CONDITIONS. The following general conditions shall apply:

1. Nothing contained in this contract shall authorize or permit a change in the office with whom or the place at which any document or record relating to the general or special election is to be filed, or place at which any function of the canvass of the election returns is to be performed, or the officer to serve as custodian of voted ballots or other election records.
2. The Officer may assign deputies to perform any of the contracted services.
3. The Officer may contract with third persons for election services and supplies.
4. This contract shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hays County, Texas.
5. In case any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this contract shall be construed as if such

invalid, illegal, or unenforceable provision had never been contained herein.

6. No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereof.

Article 7. MISCELLANEOUS. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defenses available at law or in equity to the County, the City or the Officer, or to create any legal rights or claim on behalf of any third party. Neither the County, the City, nor the Officer waive any defenses whatsoever, including, but not limited to, governmental immunity.

Article 8. NOTICE. Any notice provided for under this Agreement shall be forwarded to the following addresses:

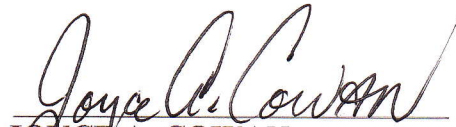
Hays County
Elections Administrator
401-C Broadway St.
San Marcos, TX 78666

City Administrator/Secretary
15 N. Old Spanish Trail
Uhland, TX 78640


SIGNED AND AGREED UPON THIS THE 16th DAY OF February, 2008.

Hays County Elections Administrator

City of Uhland



JOYCE A. COWAN
2/15/08



Mayor, Daniel R. Heideman

ATTEST:



City Administrator/City Secretary