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RECEIVED

MAR 9 2009

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**CITY OF CEDAR RAPIDS
CITY CLERK**

Mr. Jim Flitz
City Attorney
City Hall
Cedar Rapids, IA 52401

March 9, 2009

RE: Sales Tax

Dear Jim:

First of all, please convey Marion's heartfelt thanks to Mayor Halloran, the entire City Council and staff for their willingness to take up this matter on such short notice and notwithstanding your very demanding schedules. Having such good neighbors is what makes the metropolitan area such a wonderful place to live, work and raise our families.

The purpose of this letter is to confirm our phone conversation of March 6, 2009 in the following respects:

A. Attached is a draft of legislation that the City of Marion is respectfully requesting that the City Council of Cedar Rapids consider adopting.

This legislation is designed to call for another election on the issue of adoption of a one cent local option sales tax. (As was the case in last Tuesday's election, only the cities that do have a local option sales tax will vote on the matter to wit: Marion, Hiawatha, Robins, Center Point and Walford. The Cedar Rapids and unincorporated Linn County electorate, having approved the matter at last weeks election, would accordingly not vote in this election.)

B. Under S.F. 44 (copy attached), recently adopted by the State legislature, only Cedar Rapids can call for such an election in this fashion (due to a population requirement in Chapter 423B in the Iowa Code). S. F. 44 allowed for only two trigger dates for the filing with the county election commissioner of a motion requesting an election: February 3 and March 10. The February 3 date was the date

used by Cedar Rapids to call for the election held last week. Accordingly, only the March 10 date is available for calling another election. Absent Cedar Rapids calling for an election by 5:00 p.m. on March 10, the filing of a petition with about 5,700 signatures will be required to place the matter on a ballot.

While obtaining such a petition would certainly be doable, it would or could create three problems for the metro area:

1. the metropolitan cities would be under the Chapter 423B rule of voting as a block rather than voting individually as is the case under S.F. 44.

2. there would be a much more significant gap between the effective dates for the imposition of the tax in the various jurisdictions. If Cedar Rapids calls for the election by Tuesday March 10, the gap will only be from April 1 to July 1, 2009 rather than a gap of many more months. There is concern that an even larger gap in imposition dates could lead to significant confusion and accompanying collection problems.

3. the call for this election can include a request that the length of the tax (the repeal date) be coordinated with the local option tax adopted by Cedar Rapids and Linn County electors at the March 3 election.

C. S.F. 44 has no prohibition against Cedar Rapids again calling for such an election and there are no time limits that present any barrier to calling for such an election. Chapter 423B of the Code of Iowa also has no barriers to calling for such an election.

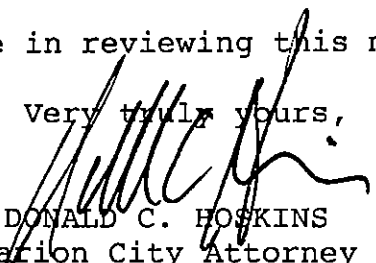
D. Marion also asks that Cedar Rapids request that the Linn County Supervisors be requested to direct that the ballot contain a provision for the repeal, without election, of the local sales and services tax on June 30, 2014 in order that the repeal be consistent with the local sales and services tax adopted by other jurisdictions at the election held on March 3, 2009.

E. While we do not believe that any fees or charges related to this election will be incurred by Cedar Rapids, I am authorized to provide Marion's assurance that it will hold the City of Cedar Rapids harmless and will indemnify the city against any expenses that might be charged to Cedar Rapids by the county election commissioners office for calling for the

election therein requested. If any such billing are received please just forward the same to me and I will submit the same to the Marion City Council for payment.

Thank you for your assistance in reviewing this matter.

Very truly yours,



DONALD C. HOSKINS
Marion City Attorney

DCH/aao

RESOLUTION _____

RESOLUTION REQUESTING A SPECIAL ELECTION BE HELD ON MAY 5, 2009 ON THE ADOPTION OF A LOCAL OPTION SALES AND SERVICES TAX PURSUANT TO THE PROVISIONS OF S. F. 44, EIGHTY-THIRD GENERAL ASSEMBLY.

WHEREAS, the City of Marion has requested that the City of Cedar Rapids pass and file with the county elections commissioner a motion calling for a special election on a local option sales and services tax to be held on May 5, 2009 pursuant to the provisions of S. F 44 of the Acts of the 83rd General Assembly, and

WHEREAS, the City of Marion has requested that the Linn County Supervisors be requested to direct that the ballot contain a provision for the repeal, without election, of the local sales and services tax on June 30, 2014 in order that it be consistent with the local sales and services tax adopted by some Linn County jurisdictions at the election held on March 3, 2009, and

WHEREAS, the City Council finds that the public interest will be served by calling for said election.

NOW THEREFORE BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR RAPIDS, IOWA as follows:

1. The question of the imposition of a local sales and services tax at the rate of one percent (1%) to commence on July 1, 2009 should be submitted to the registered voters of the incorporated and unincorporated areas of Linn County, Iowa, where the tax has not heretofore been imposed, at a special election to be held on May 5, 2009.
2. The voters of Cedar Rapids having heretofore approved the imposition of a local option sales and services tax at the special election held on March 3, 2009 makes no provision herein as to any ballot proposition language regarding the uses to be made of said tax.
3. The City Clerk is hereby directed to submit a certified copy of this resolution to the Linn County Commissioner of Elections, and that this resolution shall constitute a motion requesting the special election referenced above be held.

4. The City Clerk is hereby directed to submit a copy of this resolution to the Linn County Board of Supervisors and that the Linn County Board of Supervisors is hereby requested to direct that the ballot contain a provision for the repeal, without election, of the local sales and services tax on June 30, 2014.

5. The City Clerk is hereby directed to submit a copy of this resolution to the City Clerks of the Cities of Marion, Hiawatha, Robins, Center Point and Walford thereby bringing to their attention the ability to submit to the Linn County Commissioner of Elections ballot proposition language as to the uses to be made of said tax.

Passed this ____ day of March, 2009

Voting: Council member _____ moved the adoption of the resolution; seconded by Council member _____.
Adopted, Ayes, Council members _____

and _____. Nays, Council members _____.

_____, Mayor

Attest:

_____, City Clerk

STATE OF IOWA)

COUNTY OF LINN)

I, Ann Ollinger, City Clerk of the City of Cedar Rapids, Iowa, County and state aforesaid, do hereby certify that the foregoing is a true copy of:

Resolution No. _____, passed by the Cedar Rapids City Council of March ____, 2009 requesting a special election be held on may 5, 2009 on the adoption of a local option sales and services tax pursuant to the provisions of S. F. 44, Eighty-Third General Assembly.

As full and complete as the same is of record and on file in my office.

WITNESS my hand and Seal of said City on this __ day of March, 2009.

_____, City Clerk

Senate File 44 - Enrolled

PAG LIN

SENATE FILE 44

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1 2

1 3

AN ACT

1 4 RELATING TO THE IMPOSITION OF A LOCAL OPTION SALES AND SERVICES

1 5 TAX AFTER A DISASTER AND PROVIDING AN EFFECTIVE DATE.

1 6

1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 8

1 9 Section 1. A city or unincorporated area located in a
1 10 county in which the president of the United States declared a
1 11 disaster to exist at any time during 2008 may impose a local
1 12 option sales and services tax pursuant to chapter 423B using
1 13 the procedure provided in this section. A city or
1 14 unincorporated area where a local option sales and services
1 15 tax is imposed pursuant to chapter 423B on the effective date
1 16 of this Act is prohibited from using this section. The
1 17 provisions of chapter 423B shall apply to the imposition of a
1 18 local option sales and services tax pursuant to this section
1 19 with the following exceptions:

1 20 1. Notwithstanding section 423B.1, subsection 3,
1 21 subsection 6, paragraph "a", and subsection 9, and section
1 22 423B.5, unnumbered paragraph 1, cities contiguous to each
1 23 other shall not be treated as part of one incorporated area
1 24 for purposes of the election on, imposition of, and repeal of
1 25 a local option sales and services tax. For purposes of this
1 26 Act, a local option sales and services tax shall be imposed in
1 27 a city only if a majority of the votes cast in the city on the
1 28 proposition favors the imposition of the tax, and a local
1 29 option sales and services tax shall be imposed in an
1 30 unincorporated area of a county only if a majority of the
1 31 votes cast in the unincorporated area on the proposition
1 32 favors the imposition of the tax.

1 33 2. a. For purposes of section 423B.1, subsection 4, a
1 34 motion by the governing body of a city or county requesting
1 35 that the question of imposition of a local option sales and
2 1 services tax be submitted to the registered voters must be
2 2 received by the county commissioner of elections by 5:00 p.m.
2 3 on February 3, 2009, or by 5:00 p.m. on March 10, 2009. If
2 4 the fifty percent threshold required in section 423B.1,
2 5 subsection 4, paragraph "b", is met in a county by the

2 6 February 3, 2009, deadline, then by February 8, 2009, or as
2 7 soon as practicable, the county commissioner of elections
2 8 shall publish notice of the ballot proposition concerning the
2 9 imposition of the local option sales and services tax. If the
2 10 fifty percent threshold required in section 423B.1, subsection
2 11 4, paragraph "b", is met in a county by the March 10, 2009,
2 12 deadline, then by March 15, 2009, or as soon as practicable,
2 13 the county commissioner of elections shall publish notice of
2 14 the ballot proposition concerning the imposition of the local
2 15 option sales and services tax.

2 16 b. The petition method described in section 423B.1,
2 17 subsection 4, paragraph "a", for requesting the submission of
2 18 the question of the imposition of a local option sales and
2 19 services tax to the registered voters shall not apply under
2 20 this Act.

2 21 3. Notwithstanding section 423B.1, subsection 5, and
2 22 pursuant to section 39.2, subsection 4, the question of the
2 23 imposition of a local option sales and services tax shall be
2 24 submitted at an election held on March 3, 2009, if the
2 25 February 3, 2009, deadline provided in subsection 2 of this
2 26 section is met, and on May 5, 2009, if the March 10, 2009,
2 27 deadline provided in subsection 2 of this section is met.

2 28 4. Notwithstanding section 423B.1, subsection 5, and
2 29 section 423B.6, subsection 1, paragraph "a", the imposition
2 30 date for a local option sales and services tax approved at an
2 31 election held pursuant to this Act, on March 3, 2009, shall be
2 32 April 1, 2009, and the imposition date for a local option
2 33 sales and services tax approved at an election held pursuant
2 34 to this Act, on May 5, 2009, shall be July 1, 2009.

2 35 5. Notwithstanding section 423B.7, subsection 4, for a
3 1 local option sales and services tax imposed pursuant to this
3 2 Act, the three=year period referenced in section 423B.7,
3 3 subsection 4, shall be the three=year period beginning July 1,
3 4 2004, and ending June 30, 2007. This subsection shall not
3 5 apply to a city or the unincorporated area of a county that is
3 6 imposing a local option sales and services tax on the
3 7 effective date of this Act.

3 8 Sec. 2. EFFECTIVE DATE. This Act, being deemed of
3 9 immediate importance, takes effect upon enactment.

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JOHN P. KIBBIE
President of the Senate

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PATRICK J. MURPHY
Speaker of the House

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3 20

3 21 I hereby certify that this bill originated in the Senate and
3 22 is known as Senate File 44, Eighty-third General Assembly.

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MICHAEL E. MARSHALL
Secretary of the Senate

3 27

3 28 Approved

, 2009

3 29

3 30

3 31

3 32 CHESTER J. CULVER

3 33 Governor