ORDINANCE 2009-56
ORDINANCE ADOPTING A SALES AND USE TAX FOR COOK COUNTY, MINNESOTA

The County Board of Cook County, Minnesota ordains:

Section 1: AUTHORITY.

The Minnesota Legislature has, by Laws of Minnesota 2008, Chapter 366, Article 7, Section 18 (the "2008 Act"), authorized Cook County, Minnesota (the "County") to impose a sales and use tax of up to one percent, with the revenues therefrom to be used for specific purposes set forth in subdivision 2 of the 2008 Act. The County approved the 2008 Act in accordance with applicable law.

The Minnesota Legislature has also enacted Laws of Minnesota 2009, Chapter 88, Article 4, Section 22 and Chapter 88, Article 6, Section 25 (the "2009 Amendments") which amended the 2008 Act by increasing the amount of revenues from the authorized sales and use tax for the authorized projects from $14,000,000, plus any associated bond costs, to $20,000,000, plus any associated bond costs, and revising the list of projects eligible to be financed under the 2008 Act. The County approved the 2009 Amendments in accordance with applicable law.

Section 2: DEFINITIONS.

The words, terms and phrases used in this Ordinance shall have the meaning ascribed to them in Minnesota Statutes, Section 297A, except where the context clearly indicates otherwise. In addition, the following definitions shall apply:

Subd. 1: Act means Laws of Minnesota 2008, Chapter 366, Article 7, Section 18, as amended by Laws of Minnesota 2009, Chapter 88, Article 4, Section 22 and Chapter 88, Article 6, Section 25;

Subd. 2: County means Cook County, Minnesota;

Subd. 3: Commissioner means the Commissioner of Revenue for the State of Minnesota acting under the authority of an agreement entered into between the County and the State of Minnesota pursuant to the Act, or such other person or entity designated to administer and collect the Cook County Sales and Use Tax;

Subd. 4: Cook County Sales and Use Tax means the sales and use tax imposed and collected pursuant to this Ordinance;

Subd. 5: Ordinance means this ordinance in its present form and as subsequently codified in the Cook County Code of Ordinances;

Subd. 6: Retailer maintaining a place of business in the County or any like term shall mean any retailer having or maintaining within the County, directly or by a subsidiary or an affiliate, an office, place of distribution, sales or sample room or place, warehouse or

other place of business, or having any representative, including an affiliate, agent, sales person, canvasser or solicitor operating in the County under the authority of the Retailer or its subsidiary, for any purpose, including the repairing, selling, delivering, installation, or soliciting of order of the Retailer's goods or services, or the leasing of tangible personal property located in the County, whether the place of business or agent, representative, affiliate, sales person, canvasser, or solicitor is located in the County permanently or temporarily, or whether or not the Retailer or subsidiary is authorized to do business within the County.

Section 3: COOK COUNTY SALES & USE TAX.

Except as otherwise provided in this Ordinance, there is hereby imposed an additional sales and use tax in the amount of one percent of the gross receipts from the sales at retail, and the storage, use, distribution or consumption of goods or services which are taxable, pursuant to Minnesota Statutes, Chapter 297A and occur within Cook County, Minnesota. The imposition, administration, collection and enforcement of this tax shall be governed by the provisions of Minnesota Statutes Chapters 297A, 270C, and 289A.

Section 4: SEPARATE STATEMENT; COLLECTION FROM PURCHASER; ADVERTISING NO TAX; MINIMUM UNIFORM TAX COLLECTION METHODS.

The Cook County Sales and Use Tax shall be stated and charged separately from the sales price or charge for service insofar as practical, and should be a debt from the purchaser to the seller recoverable at law in the same manner as other debts. In computing the tax to be collected as a result of any transaction, any amount of tax less than one-half of one cent may be disregarded and amounts of tax one-half cent or more may be considered an additional cent. If the sales price of any sale at Retail is ninety-nine cents or less, no tax shall be collected.

Section 5: EXEMPTION CERTIFICATES.

A fully completed exemption certificate taken from a purchaser to the effect that the property purchased is for resale or that the sale is otherwise exempt from the application of the tax imposed by this Ordinance will conclusively relieve the Retailer from collecting and remitting the tax. A person who has obtained from the Commissioner an exemption certificate pursuant to Minnesota Statutes, Section 297A may use such exemption certificate for purposes of the Cook County Sales and Use Tax.

Section 6: PRESUMPTION OF PURPOSE OF SALE.

For the purpose of the proper administration and enforcement of Section 3 of this Ordinance, it shall be presumed that all retail sales for delivery in the County are for storage, use, or other consumption in the County until the contrary is established.

Section 7: COLLECTION OF COOK COUNTY SALES AND USE TAX AT TIME OF SALE.

Subd. 1: Any retailer making deliveries within the County, any Retailer maintaining a place of business in the County, or any other Retailer otherwise doing business within the County, upon making sales or any items described in Section 3 which are not exempted from the Cook County Sales and Use Tax imposed under that section and which are to be delivered or caused to be delivered within the County to the purchaser, shall at the time of making such sales, collect the Cook County Sales and Use Tax from the purchaser. The tax collected by such retailer shall be remitted to the Commissioner on behalf of the County.

Subd. 2: Any retailer required to collect the Cook County Sales and Use Tax and remit such tax to the Commissioner pursuant to this section shall register with the Commissioner and provide such other information as the Commissioner may require.

Section 8: AGENT OF RETAILER.

When in the opinion of the Commissioner it is necessary for the efficient administration of the Cook County Sales and Use Tax, the Commissioner may regard any salesman, representative, trucker, peddler or canvasser as the agent of the dealer, distributor, supervisor, employer or other person under whom such salesman, representative, trucker, peddler or canvasser operated or from whom the tangible property is being sold is obtained, and may regard the dealer, distributor, supervisor, employer or other person as a Retailer for the purposes of this Ordinance.

Section 9: EFFECTIVE DATE; TRANSITIONAL SALES.

Except as otherwise provided herein, the Cook County Sales and Use Tax authorized by this Ordinance shall apply to sales made on or after April 1, 2010, and shall be in addition to all other taxes now in effect. The Cook County Sales and Use Tax shall not apply to the following:

Subd. 1: The gross receipts from the purchase or lease of tangible personal property made under an enforceable contract entered into before April 1, 2010, provided that delivery or possession of items is taken on or before June 30, 2010.

Subd. 2: The gross receipts from the purchase of taxable services made under an enforceable contract entered into before April 1, 2010, and for which payment was made before April 1, 2010, provided that the services were provided before June 30, 2010.

Subd. 3: The gross receipts from the purchase of construction materials used to complete a lump sum or fixed price construction contract that was signed and enforceable before April 1, 2010, and that does not provide for an allocation of future taxes, provided that the construction materials are used exclusively in performing the contract and the materials are delivered before September 30, 2010.

Subd. 4: The gross receipts from the purchase of utility services if the utility bill includes charges for services furnished before April 1, 2010; however, the Cook County Sales and Use Tax shall apply to all utility bills for periods beginning April 1, 2010.

Section 10: COLLECTION AND ENFORCEMENT.

The Cook County Sales and Use Tax imposed by the County pursuant to this Ordinance shall be subject to the same interests, penalties, and other rules as are applicable to the State general sales tax imposed by Minnesota Statutes Chapter 289A and 297A. The Cook County Sales and Use Tax imposed by the County pursuant to this Ordinance may be collected by the State on behalf of the County as provided by an appropriate agreement with the Minnesota Commissioner of Revenue.

Section 11: TAX CLEARANCE ISSUANCE OF LICENSES.

The County may not issue or renew a license for the conduct of trade or business in the County if the Commissioner notifies the County that the applicant for such license owes delinquent Cook County Sales and Use Taxes as provided in this Ordinance, or penalties or interest due on such taxes. For the purposes of this Section 11, the following terms have the following meanings:

Subd. 1: Cook County Sales and Use Taxes include sales and use tax as provided in this Ordinance. Penalties and interest are penalties and interest due on taxes included in this definition.

Subd. 2: Delinquent taxes do not include a tax liability if:

a. an administrative or court action which contests the amount of validity or the liability has been filed or served;

b. the appeal period to contest tax liability has not expired; or

c. the applicant has entered into a payment agreement and is current with the payments.

Subd. 3: Applicant means an individual if the license is issued to or in the name of an individual or the corporation, partnership or other entity if the license is issued to or in the name of a corporation, partnership or other entity.

A copy of the notice of delinquent taxes given to the County shall also be sent to the applicant taxpayer. In the case of renewal of a license, if the applicant requests a hearing in writing within thirty (30) days of the receipt of the notice of delinquent taxes, then a contested case hearing shall be held by the Commissioner under the same procedures as provided in Minnesota Statutes, Section 270C.72 for the State sales and use tax imposed under Minnesota Statutes, Chapter 297A, provided that if a hearing must be held on the State sales and use tax, hearings may be combined.

This Ordinance is adopted the 1st day of December, 2009, and shall be effective upon publication.

COOK COUNTY, MINNESOTA

By_____
Chair

ATTEST:

_____
Clerk

This Ordinance was published on _____, 2009

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