

JOHNSON COUNTY COUNCIL

ORDINANCE NO. 2005-03

ORDINANCE IMPOSING THE JOHNSON COUNTY FOOD AND BEVERAGE TAX

WHEREAS, the construction of a world-class convention center and stadium facility in Indianapolis is critical to successful economic development throughout central Indiana; and

WHEREAS, the Governor of the State of Indiana (the "State") has sought the cooperation and assistance of Boone, Johnson, Hamilton, Hancock, Johnson, Johnson and Shelby counties (the "Suburban Counties") in the financing of the construction of a world-class convention center and stadium facility in Indianapolis; and

WHEREAS, the Indiana General Assembly has recognized that the Suburban Counties face unique and distinct challenges and opportunities related to the existence of a world-class convention center and stadium facility in Indianapolis; and

WHEREAS, the Indiana General Assembly, through the passage of HEA 1120-2005, has recognized that a unique approach is required to ensure that the Suburban Counties have sufficient revenue sources to: (i) allow them to meet these challenges and opportunities; and (ii) to cooperate with and assist in the financing of a world-class convention center and stadium facility in Indianapolis; and

WHEREAS, IC 6-9-35, as added by HEA 1120-2005 (the "Act"), authorizes the county councils of the Suburban Counties to adopt an ordinance to impose the food and beverage tax (the "Food and Beverage Tax") on transactions described in IC 6-9-35-8 and IC 6-9-35-9 (the "Food and Beverage Transactions") that occur anywhere in their respective counties; and

WHEREAS, the Act provides that the rate of the Food and Beverage Tax imposed in a county is one percent (1%) of the gross retail income on the Food and Beverage Transaction; and

WHEREAS, the Act permits a county council to adopt an ordinance requiring revenues from the Food and Beverage Tax (the "Tax Revenues") to be: (i) reported on forms approved by the county treasurer; and (ii) paid monthly to the county treasurer; and

WHEREAS, the Act provides that, if Tax Revenues are to be paid monthly to the county treasurer, the county treasurer is required to pay fifty percent (50%) of the Tax Revenues to the Treasurer of State monthly; and

WHEREAS, the Act provides that if a county council does not adopt such an ordinance, the Food and Beverage Tax shall be imposed, paid and collected in the same manner that the State gross retail tax is imposed, paid and collected under IC 6-2.5; and

WHEREAS, the Act provides that, as long as there are any current or future obligations owed by the Marion County Capital Improvement Board (the "Capital Improvement Board") to the Indiana Stadium and Convention Building Authority or any State agency under a lease or other agreement entered into pursuant to IC 5-1-17 (the "Project Obligations"), fifty percent (50%) of the Tax Revenues received by the county treasurer and paid to the Treasurer of State or received by the State on behalf of the Suburban Counties, shall be paid monthly by the Treasurer of State to the Treasurer of the Capital Improvement Board; and

WHEREAS, the Act provides that, in any State fiscal year in which the total amount of Tax Revenues paid to the Treasurer of the Capital Improvement Board equals five million dollars (\$5,000,000), the remainder of the Tax Revenues shall be: (i) retained by the county, if the county has adopted an ordinance requiring the Food and Beverage Tax to be paid to the county; or (ii) paid by the Treasurer of State to the county auditor, upon warrants issued by the Auditor of State; and

WHEREAS, the Act provides that if there are no existing Project Obligations, the entire amount of Tax Revenues from the Food and Beverage Tax imposed by a county shall be retained by the County Auditor; and

WHEREAS, the Act provides that, if a county imposes the Food and Beverage Tax, the county auditor shall: (i) establish a food and beverage tax fund (the "Tax Fund"); and (ii) deposit all Tax Revenues received by the county in the Tax Fund; and

WHEREAS, Tax Revenues received by a county from the Food and Beverage Tax imposed under the Act may be treated by a county as additional revenue for the purpose of fixing its budget for the budget year during which the Tax Revenues are to be distributed to the county; and

WHEREAS, Tax Revenues deposited in the Tax Fund shall be used: (i) at the discretion of the county, to reduce the county's property tax levy for a particular year, although such use does not reduce the county's maximum permissible levy; or (ii) for any legal or corporate purpose of the county, including the pledge of revenues to bonds, leases, or other obligations under IC 5-1-14-4; and

WHEREAS, if there are no outstanding Project Obligations or outstanding obligations of the county for which a pledge of Tax Revenues has been made pursuant to IC 6-9-35-14, a county council may adopt an ordinance, after December 31, 2009 and before December 1, 2010, or any year thereafter, to repeal an ordinance imposing the Food and Beverage Tax in the county; and

WHEREAS, the Johnson County Council desires to: (i) impose the Food and Beverage Tax on Food and Beverage Transactions in Johnson County (the "County"); (ii) require revenues from the Food and Beverage Tax to be: (A) reported on forms approved by the County Treasurer; and (B)

paid monthly to the County Treasurer; and (iii) express its intent that the Tax Revenues from the Food and Beverage Tax in the County received by the Treasurer of the Capital Improvement Board be used solely to pay or to secure the payment of Project Obligations that are lease rentals or other agreements described in IC 6-9-35-12;

NOW, THEREFORE, BE IT ORDAINED BY THE JOHNSON COUNTY COUNCIL:

Section 1. (a) The Johnson County Food and Beverage Tax (the “County Food and Beverage Tax”) is hereby imposed on Food and Beverage Transactions, at the rate of one percent (1%) of the gross retail income of the Food and Beverage Transactions occurring anywhere in the County.

(b) The County Food and Beverage Tax shall apply to Food and Beverage Transactions occurring after the last day of the month succeeding the month in which this Ordinance is adopted.

Section 2. (a) Pursuant to IC 6-9-35-11, Tax Revenues from the County Food and Beverage Tax (the “County Tax Revenues”) shall be reported on forms approved by the County Treasurer.

(b) County Tax Revenues shall be paid monthly to the County Treasurer not more than twenty (20) days after the end of the month in which the County Food and Beverage Tax is collected.

(c) Pursuant to IC 6-9-35-11, the County Treasurer is responsible for collecting and enforcing the provisions of IC 6-2.5 with respect to the County Food and Beverage Tax.

Section 3. (a) There is hereby established a County Food and Beverage Tax Fund into which the County Treasurer shall deposit all County Food and Beverage Tax Revenues.

(b) Pursuant to IC 6-9-35-12(a), the County Treasurer is directed to pay to the Treasurer of State on or before the fifth day of every month 50% of the County Tax Revenues deposited in the County Food and Beverage Tax Fund on or before the 20th day of the preceding month, so long as there are any current or future Project Obligations. In any State fiscal year, if the total amount of the Tax Revenues from the imposition of the Food and Beverage Tax pursuant to IC 6-9-35 by all the Suburban Counties and paid to the Treasurer of the Capital Improvement Board or its designee equals \$5,000,000, the entire remainder of the County Tax Revenues during that State fiscal year shall be retained by the county treasurer or paid by the Treasurer of State to the county auditor, upon warrants issued by the Auditor of State.

(c) It is the intent of the County that County Tax Revenues paid to the Treasurer of the Capital Improvement Board be used solely to pay or to secure the payment of Project Obligations that are lease rentals or other agreements described in IC 6-9-35-12.

(d) County Tax Revenues remaining in the County Food and Beverage Tax Fund, after making the required payments to the Treasurer of State under subsection (b), shall be retained by the County and used for any purpose permitted under IC 6-9-35-14, including the pledge of County Tax Revenues to the payment of bonds, leases or other obligations in accordance with IC 5-1-14-4.

Section 4. The County Auditor, as the clerk of this Council, shall, upon passage, immediately send a certified copy of this Ordinance to the Commissioner of the Department of State Revenue.

Section 5. The County Food and Beverage Tax terminates on January 1 of the year immediately following the year in which the last payment required of the Capital Improvement Board for Project Obligations is made, for any Project Obligations that existed on July 1, 2006.

Section 6. This Ordinance takes effect upon passage.

Section 7. Pursuant to IC 6-9-35-5(d), if the Marion County City-County Council does not adopt all the ordinances required to be adopted by it under IC 5-1-17-25 on or before June 30, 2005, this Ordinance shall no longer be in effect.

Passed this 22nd day of June, 2005.

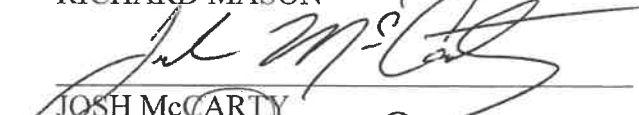
JOHNSON COUNTY COUNCIL



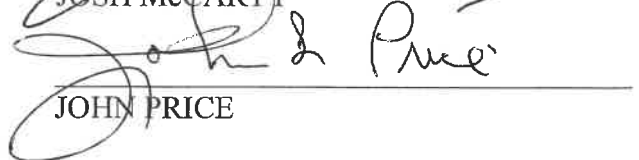
CHARLES CANARY



RICHARD MASON



JOSH McCARTY



JOHN PRICE

PAUL REED



RON WEST



STEVE HOLLENBECK

ATTEST:

Barbara Davis

Barbara Davis, Acting County Auditor

First Deputy Auditor

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