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March 12, 2007

Alderman Tony Zielinski
14th Aldermanic District
City Hall, Room 205

Re: Ordinance Relating to Procurement of Fair Trade Certified Products

Dear Alderman Zielinski:

You requested an opinion concerning the legality and enforceability of a substitute ordinance relating to procurement of Fair Trade Certified products, Common Council File Number 061258. It is our opinion that the proposed ordinance is legal and enforceable.


The proposed ordinance directs the City to, "to the greatest extent practicable," "make purchasing decisions that maximize the purchase of Fair Trade Certified products when these products are available and comparably priced to non-certified items." Under the ordinance, "Fair Trade Certified" means that a product meets the Fair Trade standards established by TransFair USA. Certification is currently available for the following products: coffee, tea, herbs, cocoa and chocolate, fresh fruit, sugar, rice and vanilla. The City Purchasing Director indicated that the City currently has no contracts for these products.

Consistent with our January 26, 2007 opinion regarding Common Council File Number 061257, because the City is acting in its role as a market participant, the proposed ordinance is not subject to challenge under the Commerce Clause of the United States Constitution. Therefore, it is our opinion that the ordinance is legal and enforceable.


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If you have any further questions or concerns, please do not hesitate to contact the undersigned.

Very truly yours,



GRANT E. LANGLEY
City Attorney



THOMAS D. MILLER
Assistant City Attorney

TDM:tdm:116665

c: Barry Zalben, Legislative Reference Bureau
Ronald D. Leonhardt, City Clerk

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