

RESOLUTION ESTABLISHING MUNICIPAL SALES TAX REFUND ACCOUNT

WHEREAS the annexation of the Rapid City Airport and surrounding lands was effected by the City of Rapid City pursuant to a Resolution adopted by the Rapid City Council July 21, 1997; and

WHEREAS that annexation became effective on August 19, 1997; and

WHEREAS on June 14, 2000, the Supreme Court of the State of South Dakota determined that the annexation of that land was improper; and

WHEREAS during the period of annexation the City of Rapid City, believing the annexation to be proper, imposed a Municipal Occupational Sales and Service tax on the merchants operating at the Rapid City Airport and had that tax collected on its behalf by the State of South Dakota; and

WHEREAS given that the annexation of the Rapid City Airport and surrounding land was ultimately found to be improper, the collection of Municipal Occupational Sales and Service tax during the period from August 19, 1997 through June 14, 2000 on the improperly annexed land may also have been improper; and

WHEREAS the City of Rapid City desires to make whole consumers who may have been overcharged for goods and/or services by merchants who believed that they were required to remit Municipal Occupational Sales and Services tax to the State of South Dakota for the benefit of the City of Rapid City; and

WHEREAS no statutory remedy exists for the refunding of such amounts to the consumer.

NOW, THEREFORE, BE IT RESOLVED the City of Rapid City hereby establishes a fund to be known as the "City of Rapid City Municipal Sales Tax Refund Account;" and

BE IT FURTHER RESOLVED that there shall be and hereby is made a one-time appropriation for this fund in the amount of \$250,000; provided, however, that should this amount be deemed insufficient by the City Finance Officer at a future date, nothing shall prevent supplemental appropriations from being adopted by the Rapid City Council at a future date; and

BE IT FURTHER RESOLVED that the City Attorney and the City Finance Officer are authorized and instructed to develop and implement a procedure within ten (10) days of the date hereof for refunding any amounts paid by consumers to merchants over and above the ordinary cost of goods and/or services purchased and which is commonly but incorrectly known as "city sales tax;" and

BE IT FURTHER RESOLVED that notification of the City's remedy shall be published in the Rapid City Journal in a legal display ad, and published not less than eight (8) times over the course of 16 weeks. In addition, notices of the available remedy shall be posted conspicuously at the Rapid City Municipal Airport, and at all business establishments therein; and

BE IT FURTHER RESOLVED that any funds remaining in the "City of Rapid City Municipal Sales Tax Refund Account" on the date two years from the date of its creation shall revert to the General Fund of the City of Rapid City, and any program then in operation designed and developed to reimburse consumers for the amounts paid by consumers to merchants over and above the ordinary cost of goods and/or service shall terminate; and

BE IT FURTHER RESOLVED that nothing herein shall be construed as an admission by the City that the contemplated refund is required by law or is anything other than a voluntary act by the City of Rapid City.

Dated this _____ day of _____, 2001.

Rapid City Council

Mayor

ATTEST:

Finance Officer

(SEAL)