

## **RESOLUTION EXTENDING 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; and

**WHEREAS** the Common Council passed a Resolution which was executed by the Mayor on February 5<sup>th</sup>, 2001, authorizing an administrative procedure 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

**WHEREAS** that Resolution expired by its own terms on February 5<sup>th</sup>, 2003; and

**WHEREAS** it is the desire of the Common Council to continue the administrative procedure for an additional two years.

**NOW, THEREFORE, BE IT RESOLVED** that the fund known as the "City of Rapid City Municipal Sales Tax Refund Account" shall continue in existence for a period of two years from February 5<sup>th</sup>, 2003; and

**BE IT FURTHER RESOLVED** that the administrative procedure developed 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" shall be continued for a period of two years from February 5<sup>th</sup>, 2003; and

**BE IT FURTHER RESOLVED** that any funds remaining in the "City of Rapid City Municipal Sales Tax Refund Account" on February 5<sup>th</sup>, 2005 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 \_\_\_\_\_, 2003.

Rapid City Council

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer

(SEAL)