

**City of Rapid City**  
**Rushmore Plaza Civic Center Arena Expansion Project 2014-2015**

**Municipal Advisor Agreement**

THIS AGREEMENT made and entered into by and between the City of Rapid City hereinafter referred to as "Issuer," and Dougherty & Company LLC, hereinafter referred to as "Municipal Advisor," consists of the following:

WHEREAS, Issuer is considering the issuance of Sales Tax Lease Purchase obligations (the "Issue"); and

WHEREAS, Municipal Advisor is a specialist in assisting public entities in the issuance of such obligations;

NOW, THEREFORE, IT IS AGREED THAT MUNICIPAL ADVISOR WILL: Serve as Issuer's municipal advisor specifically for the referenced Issue. This agreement confirms the terms under which Municipal Advisor will act as a municipal advisor to Issuer (the "Issuer") with respect to the issuance of the above captioned obligations.

Scope of Services. Municipal Advisor may provide the following services:

1. Study existing and potential future financial commitments of Issuer, its economic resources and other pertinent social and economic data;
2. Assist in determining the amount of financing required;
3. Study available financing options for Issuer's projects;
4. Recommend the type or types of obligations to be utilized;
5. Recommend a financing program designed to fit the resources and requirements of Issuer;
6. Coordinate financing activities with Issuer, its engineers, accountants, attorneys and other specialists engaged by Issuer;
7. Attend meetings and public hearings to properly explain the financing and assist in the preparation of public information materials, including news releases, relative to the financing;
8. Recommend nationally recognized bond counsel and consult with counsel of Issuer's choice relative to minutes, resolutions and proceedings necessary to authorize the obligations supporting the Issue;
9. Prepare tentative time tables outlining various actions required to successfully complete the financing including recommending a date or dates for an election, if required, to authorize obligations and/or other questions that require voter

approval;

10. Assist with review of existing City ordinances, recommend changes and review necessary ordinance changes.

11. Assist with the preparation and distribution of a Request for Proposals for Financing and review and evaluate responses to the Request for Proposals for Financing and assist with the selection of Lender or Underwriter(s).

12. Recommend a date or dates for the sale of the type or types of sale for the Issue and terms on which proposals or bids will be received;

13. Research and recommend various covenants, maturity schedules and other details to be included in the proceedings authorizing the obligations supporting the Issue;

14. If necessary, or desired by Issuer, accumulate and prepare financial and general information necessary to secure a rating (or ratings) from nationally recognized rating service(s). Forward the same to the appropriate agencies and communicate with key personnel to assure a timely rating assignment;

15. Assist in the preparation and distribution to interested bond underwriters (banks, bond dealers, investment bankers, etc.) the required Disclosure Document(s) containing appropriate and required information and material relating to Issuer and the Issue, and an Official Notice of Sale (if so required) for the sale of the Issue;

16. Advertise the sale of the Issue (if so required) in a manner that will result in more competitive bidding or successful negotiated sale for the Issue;

17. Attend or review terms of sale of the Issue, compute bids or review sales pricing and advise as to their acceptability in light of market conditions.

18. Assist in the closing process of the financial transactions and delivery of the proceeds;

19. Provide that the Issuer will receive a record book or CD and all necessary data for the use of Issuer and its Administrators throughout the maturity of the obligations; and

20. Services approved by the City after Closing of these obligations related to naming rights, rentals and other issues related to Private Activity and Arbitrage needing financial review or advice. The City may request additional services and the Municipal Advisor may provide other services specifically related to the project financed with this Issue.

**B. ISSUER WILL:**

1. Cooperation. Cooperate with Municipal Advisor in providing all information necessary to prepare the required Disclosure Document(s) and to prepare

said Document(s) in such a way as to assure interested parties of their accuracy and completeness;

2. Disclosures. Provide Municipal Advisor with details of projects under consideration that may affect the issuance of Issuer's obligations;

3. Compensation. Fees to be paid will be an Initial Fee of \$25,000 plus a Contingent Fee of \$0.50/\$1,000 of Bonds issued. Provided the City Council approves an ordinance or resolution authorizing the issuance of obligations related to the project, the Initial Fee will be paid irrespective of whether bonds are sold and will be payable after all elections, if any, are final whether or not the election(s) are successful. If no election the Initial Fee shall be payable upon submittal of a Preliminary Official Statement to a Rating Agency or to any Underwriter. The Issuer may elect to be reimbursed for the Initial Fee from proceeds of the Sale of the Issue. The \$0.50/ \$1,000 will be payable upon the Bond Closing and shall be paid from proceeds of the sale of the Issue or from funds on hand of the Issuer as the Issuer directs. If no bonds are sold for this project no Contingent Fee will be payable to the Municipal Advisor.

If there are multiple issues and any are sold more than thirty days after other issue(s) the fee shall be a contingent fee of \$1.00/\$1,000 dollars of bonds up to \$25 million and \$0.50/\$1,000 in excess of \$25 million.

Services provided for in Section 20 above will be charged on an hourly basis as follows:

Senior Vice President	\$150
Vice President	\$100
Support Staff	\$60

4. Travel expenses and other out of pocket expenses. All authorized trips to the City over four will be reimbursed as follows:

- a. Mileage will be paid pursuant to rates established for state travel.
- b. Lodging will be reimbursed at the City's rate at the Alex Johnson Hotel.
- c. Meals will be reimbursed at CONUS rate.

Any other out of pocket expenses authorized and approved by the finance office will be reimbursed at actual cost.

5. Contingent Payment of Contingent Fee. If, for reasons beyond Issuer's control, the Issue is not successfully sold, no Contingent Fee will be payable to the Municipal Advisor, however, out of pocket expenses approved and incurred on Issuer's behalf shall be reimbursed to Municipal Advisor.

C. DISCLOSURES BY MUNICIPAL ADVISOR

1. Registered Municipal Advisor. Dougherty & Company LLC is registered as a Municipal Advisor with the U.S. Securities and Exchange Commission (SEC) and Municipal Securities Rulemaking Board (MSRB). In accordance with MSRB Rules, please be informed that Municipal Advisor is acting as municipal advisor, not underwriter, for the Issue.

2. Conflicts Disclosures. As a registered Municipal Advisor, Dougherty & Company LLC is deemed to have a fiduciary duty to Issuer. Upon undertaking an engagement a municipal advisor must disclose potential or actual material conflicts of interest. Municipal Advisor has not identified any potential or actual material conflicts that require disclosure.

3. Compensation Conflicts of Interest. A potential conflict of interest that may apply to this engagement with Issuer involves compensation. Municipal Advisor discloses that potential conflict as follows:

(ii) Fixed Fees or “Lump Sum.” This form of compensation represents a potential conflict of interest because if the transaction requires more work than originally contemplated, Municipal Advisor may suffer a loss. Thus, Municipal Advisor may recommend less time-consuming alternatives or fail to do a full analysis of alternatives.

(iii) Contingent Fee. This form of compensation presents a potential conflict of interest because Municipal Advisor may have an incentive to recommend unnecessary financings or financings that are disadvantageous to Issuer. When facts or circumstances arise that could cause the financing to be delayed or fail to close, Municipal Advisor may have an incentive to discourage a full consideration of such facts and circumstances.

D. TERM OF ENGAGEMENT. Upon closing and delivery at closing, Municipal Advisor’s responsibilities will be concluded with respect to this financing and Municipal Advisor does not undertake (except as set forth in Section 20 above) to provide continuing advice to Issuer or any other party.

E. BOND MARKET AND REGULATORY CHANGES. Bond market interest rates can be volatile, fast changing and subject to factors beyond the knowledge or control of Municipal Advisor. Similarly, laws and regulations applicable to the municipal finance business are often amended. Municipal Advisor shall endeavor to inform Issuer of all factors related to the issuance of obligations, as far as such factors are known and determinable. Municipal Advisor shall not be liable however, for changes in interest rates, laws and regulations, or costs, which are beyond Municipal Advisor's knowledge or control.

F. INSURANCE. Dougherty & Company LLC shall maintain error and omission insurance with a limit not less than five million dollars during the term of this agreement

G. MISCELLANEOUS. The terms and conditions of the Agreement may be modified only in writing that is duly executed by the parties. Neither party may assign, directly or indirectly, all or part of its rights or obligations under this Agreement without the prior written consent of the other party.

Failure of a party to insist upon adherence to any term of this Agreement on any occasion shall not be considered a waiver, or deprive that party of the right thereafter to insist upon adherence to that term, or any other term, of this Agreement.

The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of South Dakota. Any action to interpret, or enforce this Agreement shall be venued in the Seventh Judicial Circuit in Pennington County, South Dakota.

IN WITNESS WHEREOF Issuer and Municipal Advisor have executed this Agreement. By signature of their representative below, each affirms that it has taken all necessary action to authorize said representative to execute this Agreement and has asked any questions or sought any clarification about the disclosure, with no further questions about said disclosure.

**Issuer**

City of Rapid City (Issuer Name)

Sam Kooiker, Mayor (Print Name of Authorized Signer)

\_\_\_\_\_ (Signature)

ATTEST:

\_\_\_\_\_  
Pauline Sumption  
Finance Officer  
300 Sixth Street  
Rapid City, South Dakota 57701

Executed this \_\_\_\_ day of \_\_\_\_, 2014

**Municipal Advisor**  
Dougherty & Company LLC

\_\_\_\_\_ (Print Name)

\_\_\_\_\_ (Signature)

Executed this \_\_\_\_ day of \_\_\_\_, 2014