

RESOLUTION NO. 2014-118

A RESOLUTION AUTHORIZING THE ISSUANCE OF SALES TAX OBLIGATIONS FOR THE RUSHMORE PLAZA CIVIC CENTER IN AN AMOUNT NOT TO EXCEED \$180,000,000 IN CONSTRUCTION COSTS AND FURTHER AUTHORIZING CERTAIN OFFICERS OF THE CITY TO APPROVE, EXECUTE AND DELIVER AGREEMENTS AND DOCUMENTS RELATING TO THE OBLIGATIONS

BE IT RESOLVED by the City Council of the City of Rapid City, South Dakota, as follows:

Section 1. Findings. It is hereby found, determined and declared that:

(A) The City of Rapid City, in the County of Pennington and State of South Dakota (the "City"), is a political subdivision of the State of South Dakota and a body corporate and politic.

(B) Under the laws of the State of South Dakota, the City is possessed of all powers which are necessary, requisite or proper for the government and administration of its local and municipal matters, and all rights and powers that now or hereafter may be granted to municipalities by the laws of the State of South Dakota.

(C) The City is authorized by Chapter 10-52, South Dakota Codified Laws (the "Sales Tax Act") to levy a "non-ad valorem tax" (as defined by the Sales Tax Act) on the sale, use, storage and consumption of items taxed under Section 10-45 and 10-46 of the South Dakota Codified Laws, subject to certain exceptions; and the City has adopted and enacted Chapter 3.16 of the Rapid City Municipal Code, as amended by Ordinances Nos. 5019, 5046 and 6018 (said Chapter 3.16 as so amended, the "Sales Tax Ordinance"), imposing and providing for the administration of the taxes authorized by the Sales Tax Act within the City, such tax being hereinafter referred to as the "Sales Tax."

(D) The City may issue municipal non-ad valorem tax revenue bonds pursuant to Section 10-52-2.10 of the Sales Tax Act and Chapter 6-8B, South Dakota Codified Laws in anticipation of the collection of the Sales Tax. Such bonds are required to be payable solely from collections of the Sales Tax, and the City is required to covenant that it will continue to impose and collect the Sales Tax so long as such bonds are outstanding.

(E) The City is authorized under Chapter 9-12 and Sections 9-52-29 to -31, South Dakota Codified Laws (together, the "Lease Act"; the Lease Act together with the Sales Tax Act, the "Acts") to acquire property by lease, including annual appropriation lease.

(F) The City is authorized under Section 3.16.060 of the Sales Tax Ordinance to deposit 46% of the Sales Tax (the "Pledged Sales Tax") in the Rapid City Capital Improvements & Vision Fund (the "Fund"), and to finance projects eligible under the Sales Tax Ordinance.

(G) All obligations previously issued and secured by the Pledged Sales Tax have matured or will mature by December 1, 2014.

(H) As authorized by the Sales Tax Ordinance and the Acts, the City has determined that it is necessary and desirable to issue obligations payable from the Pledged Sales Tax in a principal amount not to exceed \$180,000,000 (the "Sales Tax Obligations") for the purpose of financing improvements to or replacement of the existing Rushmore Plaza Civic Center and related project costs, plus amounts required for costs of issuance of the Sales Tax Obligations (including an original issue discount not to exceed 2% of the par amount of any issue of Sales Tax Obligations and any bond insurance premium as may be required) and a deposit to a reserve fund, if deemed necessary for a series of Sales Tax Obligations (the "Project"). The Sales Tax Obligations may be issued in one or more series in one or more calendar years; may be issued under and pursuant to one or more indentures of trust or lease-purchase agreements; may mature on any date on or prior to thirty (30) years following the date of issuance; shall be secured by or made payable from the Pledged Sales Tax, subject, in the case of certificates of participation in a lease-purchase financing, to annual appropriation by the City; shall bear interest at the rate or rates provided in such Sales Tax Obligations, provided that the average yield on the Sales Tax Obligations shall not exceed 6% and shall provide for such other terms as the officers of the City executing such Sales Tax Obligations shall approve.

Section 2. Authorization of Sales Tax Obligations.

(A) The City hereby authorizes the issuance of the Sales Tax Obligations in accordance with the provisions of the Acts, the Sales Tax Ordinance and this Resolution.

(B) The Sales Tax Obligations shall be special, limited obligations of the City, payable solely from the Pledged Sales Tax and other moneys pledged therefor. The Sales Tax Obligations shall not be payable from any general or other fund of the City, and the Sales Tax Obligations shall not constitute general obligations of the City.

Section 3. Pledge of Pledged Sales Tax. The Pledged Sales Tax shall be pledged or may be appropriated to the payment of the Sales Tax Obligations and any additional obligations payable therefrom to the extent permitted by the Sales Tax Ordinance and documents entered into in connection with the Sales Tax Obligations.

Section 4. Offering Documents. The Mayor, the Finance Officer and the City Attorney are authorized, in cooperation with the municipal advisor and underwriter(s), if any, for the Sales Tax Obligations, to prepare one or more offering documents, term sheets, requests for proposals or other disclosure materials to be distributed to prospective purchasers of the Sales Tax Obligations (whether one or more, the "Official Statement"). The Mayor and the Finance Officer are hereby authorized and directly to approve, and, if requested, to execute the Official Statement.

Section 5. Authorization of Documents. In connection with the authorization, issuance and delivery of the Sales Tax Obligations, the officers of the City designated by Section 6 of this resolution shall enter into, execute and deliver any of the following documents:

(A) one or more indentures, supplemental indentures, ground leases, lease-purchase agreements or supplemental leases to provide for the issuance of the Sales Tax Obligations and setting forth the terms thereof;

(B) one or more pledge agreements or intercreditor agreements, if necessary, providing for the pledge, appropriation, administration or allocation of the Pledged Sales Tax, to the extent not provided for in any of the foregoing documents;

(C) one or more bond or certificate purchase agreements or similar agreement providing for sale of the Sales Tax Obligations at a purchase price (exclusive of original issue discount not to exceed 2% of the principal amount of a series of Sales Tax Obligations) of not less than 99% of par, plus accrued interest, if any;

(D) one or more continuing disclosure agreements or undertakings satisfying the requirements of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended; and

(E) such other documents, agreements or instruments as may be necessary to make covenants and recite facts required to demonstrate the validity and enforceability of the Sales Tax Obligations under the laws of the State of South Dakota and to assure the exclusion of the interest thereon from the gross income of the owners of the Sales Tax Obligations, if issued as tax-exempt, under the Internal Revenue Code of 1986, as amended, and to effectuate the terms and intent of this resolution. The execution and delivery of such documents is hereby authorized and directed, the documents to be in such form and to contain such terms, consistent with this resolution, as the officers of the City designated herein shall determine to be necessary and desirable.

Section 6. City Officers. The Mayor and City Finance Officer are hereby authorized and directed to execute and deliver the documents authorized by Section 5 hereof. Execution and delivery of such items by the Mayor and City Finance Officer shall constitute evidence that such items are consistent with the terms of this resolution and have been duly authorized, executed and delivered by the City and are enforceable against the City in accordance with their terms, subject to customary exceptions relating to bankruptcy, reorganization, insolvency and other laws affecting creditors' rights. The Mayor, City Finance Officer and City Attorney are further authorized to take such other actions as may be required to effectuate the terms and intent of this resolution. In the event of the absence or disability of the Mayor or City Finance Officer, such other officers of the City as may, in the opinion of the City Attorney, act in the absence of such officers, are hereby authorized to act in the place and stead of the Mayor and City Finance Officer, and to take all actions and execute all documents approved hereby.

Section 7. Ratification. All actions heretofore taken by the City or any of its officers in connection with the Sales Tax Obligations are hereby ratified and confirmed.

Section 8. Amendment. This resolution may be amended at any time prior to the issuance of the Bonds by adoption of an administrative resolution.

Dated this ___ day of _____, 2014.

Mayor

(SEAL)

ATTEST:

Finance Officer

Adopted: _____, 2014.
Published: _____, 2014
Effective: _____, 2014