

BOARD OF COUNTY COMMISSIONERS
LAWRENCE COUNTY, SOUTH DAKOTA

Date: June 8, 2021

Resolution No. 2021-21

Motion by Commissioner _____

Seconded by Commissioner _____

A RESOLUTION AUTHORIZING THE SALE OF CERTIFICATES OF PARTICIPATION, IN ONE OR MORE SERIES; SUBJECT TO CERTAIN PARAMETERS; FIXING THEIR FORM AND SPECIFICATIONS; DIRECTING THE EXECUTION AND DELIVERY OF THE CERTIFICATES AND RELATED DOCUMENTS; APPOINTING A PRICING COMMITTEE TO APPROVE THE TERMS OF THE CERTIFICATES; AND RETAINING BOND COUNSEL

	YES	
SLEEP	_____	_____
ROSENAU	_____	_____
DEIBERT	_____	_____
EWING	_____	_____
FLANAGAN	_____	_____

	NO
SLEEP	_____
ROSENAU	_____
DEIBERT	_____
EWING	_____
FLANAGAN	_____

STATE OF SOUTH DAKOTA)

SS

COUNTY OF LAWRENCE)

I, Brenda McGruder, duly appointed, qualified, and acting County Auditor the County of Lawrence, State of South Dakota, do hereby certify that I have compared the foregoing copy of a resolution or motion with the original minutes of the proceedings of the Board of County Commissioners, Lawrence County, South Dakota, at their session held on the 8th day of June, now on file in my office, and have found the same to be a true and correct copy thereof.

Witness my hand and official seal at Deadwood, South Dakota, this 8th day of June, 2021.

Brenda McGruder, Auditor

**LAWRENCE COUNTY
RESOLUTION #2021-21**

A RESOLUTION AUTHORIZING THE SALE OF CERTIFICATES OF PARTICIPATION, IN ONE OR MORE SERIES, SUBJECT TO CERTAIN PARAMETERS; FIXING THEIR FORM AND SPECIFICATIONS; DIRECTING THEIR EXECUTION AND DELIVERY; PROVIDING FOR THEIR PAYMENT; APPOINTING A PRICING COMMITTEE TO APPROVE THE TERMS THEREOF; AND RETAINING BOND COUNSEL

BE IT RESOLVED By the Board of County Commissioners (the “Board”) of Lawrence County, South Dakota (the “County”) as follows:

Section 1. Background. It is hereby determined that:

- (a) The County is authorized by South Dakota Codified Law § 7-21-16.1 to enter into lease-purchase agreements for real and personal property, the provisions of SDCL § 7-21-16 or any other provision of law notwithstanding.
- (b) The Board has determined to acquire, construct, and equip a new Law Enforcement Center and Jail Facility (the “Project”).
- (c) The County intends to lease-purchase the Law Enforcement Center for ten years and the Jail Facility for twenty years.
- (d) The Board hereby deems it advisable to issue Certificates of Participation, in one or more series (the “Certificates”), in the approximate principal amount of \$43,000,000, to finance the Project.
- (e) The Board intends to enter into an Indenture of Trust (the “Indenture”) with a trustee (the “Trustee”), pursuant to which the Certificates are to be issued. Furthermore, the Board intends to enter into one or more Lease-Purchase Agreement (collectively the “Lease Agreement”) with the Trustee, as lessor, pursuant to which the Trustee will lease the Project to the County, and the County will make lease repayments (the “Lease Payments”) to the Trustee.
- (g) The Board hereby authorizes and directs Colliers Securities LLC, the County’s municipal advisor (“Colliers”), to negotiate the sale of the Certificates, including but not limited to the preparation and distribution of an Official Statement (the “Official Statement”) relating to the Certificates. The Board hereby consents to the distribution of the Official Statement and its use by the Purchaser in connection with the sale of the Certificates. The Official Statement shall be in substantially the form on file with the Board and shall be supplemented by an addendum or a Final Official Statement. The Official Statement is the sole document consented to by the Board for use in connection with the offer and sale of the Certificates.

Section 2. Pricing Committee.

2.01. Establishment of Pricing Committee. The Board hereby establishes a pricing committee with respect to the Certificates comprised of the County Auditor and the Chairman of the County Board, or their designees (the "Pricing Committee"). The Pricing Committee is authorized and directed, with the advice of Colliers, to review the proposals for the sale of the Certificates and award the sale of the Certificates to the prospective purchaser (the "Purchaser") based on the following parameters: (i) the principal amount of the Certificates shall not exceed \$43,000,000; and (ii) the combined annual lease payments for the Certificates will not exceed \$2,875,000 per year, in the payment years ending December 31, 2022 through 2042. The Board hereby approves the sale of the Certificates to the Purchaser, at the price, principal amount, and rates to be determined by the Pricing Committee. The Pricing Committee shall also determine whether the Certificates will be prepayable prior to maturity.

2.02. Pricing Committee Certificate. The Pricing Committee shall meet to award the sale of the Certificates to the Purchaser. Upon awarding the sale of the Certificates, the Pricing Committee shall complete and sign a certificate (the "Pricing Committee Certificate") in substantially the form set forth in EXHIBIT A attached hereto. The County Auditor is authorized and directed to attach the Pricing Committee Certificate, when complete, to this resolution.

2.03. Purchase Contract. The Chair of the Board and the County Auditor are hereby authorized and directed to execute a contract with the Purchaser with regard to the sale of the Certificates on behalf of the County.

Section 3. Certificates; Lease Payments; Opt Out, Bond Counsel.

3.01. Certificates. The Certificates shall be issuable only as fully registered Certificates in denominations of \$5,000 and any integral multiple thereof, numbered R-1 and upward. The Certificates shall be special, limited obligations payable solely from annual appropriations of the County made to pay the Lease Payments, in the manner provided in the Lease, and amounts held by the Trustee under the terms of the Indenture. The obligations of the Lease and the Certificates shall not constitute an indebtedness, liability, general or moral obligation, or a pledge of the faith and credit or any taxing power of the County, the State of South Dakota, or any political subdivision thereof. The Lease shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the County except its interest in the Lease and the Leased Property (as shall be defined in the Lease).

3.02. Lease Payments. The Lease Payments to be made by the County under the Lease are to be fixed so as to produce level debt service on the Certificates. The County will pay to the Trustee, promptly when due, all of the Lease Payments and other amounts required by the Lease. To provide money to make such payments, the County will include in its annual budget, for each fiscal year during the term of the Lease, money sufficient to pay and for the purpose of paying all Lease Payments, and will take all other actions necessary to provide money for the payment of the obligations of the County under the Lease from sources of the County lawfully available for such purpose.

3.03. Opt-Out. The County has passed a resolution for Opt-Out in the amount of \$2,875,000 starting with calendar year 2021 taxes payable in the calendar year 2022. The opt out will be for 20 years, which will be through taxes payable in the calendar year 2042.

3.04. Bond Counsel. The Board authorizes the Chair and County Auditor to retain Meierhenry Sargent LLP as bond counsel.

Section 4. Continuing Disclosure. The County hereby covenants and agrees that it will comply with and carry out any conditions for continuing disclosure to satisfy the requirements of Rule 15c2-12 of the Securities and Exchange, if applicable. Notwithstanding any other provision of this resolution, failure of the County to comply with any required continuing disclosure obligations is not to be considered an event of default with respect to the Certificates; however, any holder of the Certificates may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the County to comply with its obligations under this section.

Section 5. Execution of Documents. The Indenture and the Lease Agreement, in substantially the form now on file with the Board, are hereby approved. The Chair and the County Auditor are hereby authorized and directed to execute the Indenture and Lease Agreement and any other documents or certifications necessary or convenient in connection with the issuance of the Certificates in the name and on behalf of the County, subject to modifications as shall be deemed necessary, desirable, or appropriate, the execution thereof to constitute conclusive evidence of their approval of any and all modifications therein. Copies of all the documents necessary for the consummation of the transactions described herein and in the Indenture and Lease Agreement shall be delivered, filed, and recorded as provided herein and in the Indenture and Lease Agreement. The Chair and the County Auditor are hereby authorized and directed to prepare and execute by manual or facsimile signature the Certificates as described in the Indenture and to deliver them to the Trustee for authentication and delivery of the Purchaser of the Certificates, together with a certified copy of any resolutions, and the other documents required by the Indenture.

Section 6. Tax Covenants.

6.01. Tax-Exempt Certificates. The County covenants and agrees with the holders from time to time of the Certificates that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Certificates to become subject to taxation under the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations promulgated thereunder, in effect at the time of such actions, and that it will take or cause its officers, employees or agents to take, all affirmative action within its power that may be necessary to ensure that such interest will not become subject to taxation under the Code and applicable Treasury Regulations, as presently existing or as hereafter amended and made applicable to the Certificates.

6.02. Rebate. The County will comply with requirements necessary under the Code to establish and maintain the exclusion from gross income of the interest on the Certificates under Section 103 of the Code, including without limitation requirements relating to temporary periods for investments, limitations on amounts invested at a yield greater than the yield on the Certificates, and the rebate of excess investment earnings to the United States.

Adopted by the Board of Commissioners of Lawrence County, South Dakota on this 8th day of June, 2021.

FOR THE BOARD:

Richard Sleep, CHAIRMAN

ATTEST:

Brenda McGruder, AUDITOR

EXHIBIT A

FORM OF PRICING COMMITTEE CERTIFICATE

\$ _____
Board of County
Commissioners Lawrence
County, South Dakota
Certificates of Participation
Series _____

CERTIFICATE OF PRICING COMMITTEE

June 8, 2021

Pursuant to a resolution adopted by the Board of County Commissioners Lawrence County, South Dakota (the "Board") in and for Lawrence County, South Dakota (the "County") on June 8, 2021 (the "Resolution"), relating to the above-referenced certificates of participation (the "Certificates"), the Board delegated to a pricing committee, consisting of the County Auditor and the Chair of the Board, or their designees (the "Pricing Committee"), the authority, after consultation with Colliers Securities LLC., the Board's municipal advisor, to award the sale of the Certificates to _____ (the "Purchaser"), based on the parameters described in the Resolution.

1. Principal Amount and Purchase Price. The Certificates shall be issued in the original aggregate principal amount of \$ _____, which does not exceed the maximum of \$43,000,000. The purchase price of the Certificates is \$ _____ (par amount of \$ __, [plus original issue premium of \$ _____,] [less original issue discount of \$ _____,] less underwriter's discount of \$ _____), plus accrued interest,

if any.

2. Interest Rate. The Certificates shall bear interest as set forth in Schedule I attached hereto.
3. True Interest Cost. The true interest cost of the Certificates is____%, which does not exceed____%.
4. Principal Payments. The Certificates shall mature on the dates and in the amounts set forth in Schedule I attached hereto.
5. [Mandatory Redemption Schedule. The Certificates are subject to mandatory redemption on the dates and in the amounts set forth below:]
6. Optional Redemption. [The Certificates shall not be subject to optional redemption.]
[The Certificates shall be subject to optional redemption on____, 20____.]

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the undersigned members of the Pricing Committee have executed this Certificate of Pricing Committee as of the date and year first written above.

FOR THE BOARD:

Richard Sleep, CHAIRMAN

ATTEST:

Brenda McGruder, AUDITOR

SCHEDULE I

PAYMENT

SCHEDULE