

PRIVATE PLACEMENT AGREEMENT

This **PRIVATE PLACEMENT AGREEMENT**, dated _____, 2022 (this "**Placement Agreement**"), is by and among the **MISSISSIPPI DEVELOPMENT BANK** (the "**Bank**"), a public body corporate and politic of the State of Mississippi (the "**State**") exercising essential public functions, **CITY OF DIAMONDHEAD, MISSISSIPPI** (the "**City**"), a body politic existing under the Constitution and laws of the State, and **CREWS & ASSOCIATES, INC.**, Memphis, Tennessee (the "**Placement Agent**").

WITNESSETH:

WHEREAS, pursuant to the provisions of a resolution adopted on September 6, 2022 (the "**City Bond Resolution**"), the Mayor and City Council of the City, acting for and on behalf of the City, have authorized the issuance of the City's General Obligation Bond, Series 2022 (the "**City Bond**"), in a principal amount of not to exceed \$6,000,000 and the sale thereof to the Bank; and

WHEREAS, the City Bond is being issued for the purpose of providing financing for (i) constructing, maintaining, reconstructing, improving, and repairing roads and streets and acquiring rights-of-way therefore if necessary; (ii) erecting, repairing, improving, extending or maintaining waterworks or water distribution systems, and repairing, improving and extending the same; (iii) establishing erecting, repairing, improving, extending or maintaining sanitary, storm, drainage or sewerage systems; (iv) constructing, maintaining, reconstructing, improving, and repairing bridges and culverts; and (v) for other authorized purposes under Section 21-33-301 *et seq.* of the Mississippi Code of 1972, as amended from time to time (the "**City Act**"), including funding capitalized interest, if applicable and paying the costs of borrowing (the "**City Bond Project**"); and

WHEREAS, pursuant to the terms and provisions of a Trust Indenture, dated as of _____, 2022 (the "**Indenture**"), by and between the Bank and Trustmark National Bank, Jackson, Mississippi, as trustee (the "**Trustee**"), the Bank will issue its \$____,000,000 Special Obligation Bonds, Series 2022 (City of Diamondhead, Mississippi General Obligation Bond Project) (the "**Bonds**") to provide funds to purchase the City Bond, and to pay the costs incident to the sale and issuance of the Series 2022 Bonds and the City Bond (the "**Project**"); and

WHEREAS, the Series 2022 Bonds are more fully described in the Indenture and in Schedule I attached hereto; and

WHEREAS, the Bank has employed the Placement Agent to act as its agent in connection with the private placement of the Series 2022 Bonds.

NOW, THEREFORE, for and in consideration of the covenants herein made, and upon the terms and subject to the conditions herein set forth, the parties hereto agree as follows:

Section 1. Definitions. All capitalized terms used herein and not otherwise herein defined shall have the meanings ascribed to them in the Indenture and the City Bond Resolution.

Section 2. Appointment of Placement Agent. Pursuant to the Indenture, the City Bond Resolution and this Placement Agreement, the Bank and the City hereby appoint the Placement Agent as exclusive placement agent with respect to the Series 2022 Bonds, and the Placement Agent hereby accepts such appointment, with such duties as described herein, in the Indenture and in the City Bond Resolution.

Section 3. Placement of the Series 2022 Bonds. The Placement Agent hereby agrees, as the agent of the Bank and the City, to place the Series 2022 Bonds with _____ (the "**Purchaser**"), pursuant to the terms set forth in the Purchaser's Term Sheet, attached hereto as Schedule II. The Purchaser is to purchase the Series 2022 Bonds at the respective prices as set forth in Schedule III (the "**Purchase Price**"). It is understood that the purchase of the Series 2022 Bonds by the Purchaser is subject to (a) receipt by the Placement Agent of an opinion of Butler Snow LLP, Ridgeland, Mississippi ("**Bond Counsel**") to the effect that the Series 2022 Bonds constitute legal, valid and binding limited obligations of the Bank enforceable in accordance with the terms thereof and are payable from and secured only by the certain payments and funds to be received by the Bank and the Trustee and pledged to the Series 2022 Bonds under the Indenture, and to the effect that the interest on the Series 2022 Bonds is exempt from federal and State of Mississippi income taxes under existing laws, regulations, rulings and judicial decisions; (b) the delivery of certificates in form and tenor satisfactory to the Placement Agent and the Purchaser evidencing the proper execution and delivery of the Series 2022 Bonds and receipt of payment therefor, including a statements of the Bank and the City, dated as of the date of such delivery, to the effect that there is no litigation pending or, to the knowledge of the signer or signers thereof, threatened relating to the issuance, sale and delivery of the Series 2022 Bonds or the City Bond; and (c) satisfaction of other conditions specified in the Indenture and the City Bond Resolution. The Placement Agent shall be required to deposit or cause the Purchaser to deposit the Purchase Price with the Trustee on or before _____, 2022 (the "**Closing Date**"), as set forth in Schedule III attached hereto. Subject to the acquisition of the Series 2022 Bonds by the Purchaser, the Trustee will pay \$_____ from the proceeds of the Series 2022 Bonds or from other funds of the City to the Placement Agent for its Placement Agent Fee (the "**Placement Agent Fee**") on or after the Closing Date. The Series 2022 Bonds will be placed on the Closing Date with the Purchaser in accordance with the exemptions set forth in Rule 15c-12 of the Securities and Exchange Commission.

Section 4. Tax Exemption. Bond Counsel will deliver an opinion to the effect that interest on the Series 2022 Bonds is excludable from gross income for federal income tax purposes under existing statutes, regulations, rulings and court decisions.

Section 5. Payment to the City. The Placement Agent agrees that it will fund or cause the Purchaser to directly fund the Purchase Price in immediately available funds pursuant to directions of the City on the Closing Date. If the Placement Agent or Purchaser do not transfer to the Trustee the Purchase Price of the Series 2022 Bonds to be acquired by it or the Purchaser otherwise refuse to acquire the Series 2022 Bonds, the Placement Agent will use its reasonable best efforts to arrange for substitute Purchaser for the Series 2022 Bonds on the terms set forth in Section 3.

Section 6. Limitation. Nothing contained in this Placement Agreement shall obligate the Placement Agent to purchase the Series 2022 Bonds in the event the Purchaser fail to pay the Purchase Price of the Series 2022 Bonds or in the event the Placement Agent is unable to arrange for the purchase of the Series 2022 Bonds.

Section 7. Fees and Expenses. The Placement Agent Fee set forth herein represents the total compensation due to the Placement Agent for its services under this Placement Agreement.

The City is responsible for all other expenses and fees due in connection with the sale, delivery and issuance of the Series 2022 Bonds which are to be paid from the balance of the proceeds of the Series 2022 Bonds not utilized for the Project or from other funds of the City.

Section 8. Obligations of Placement Agent. The Bank and the City acknowledge and agree that this Placement Agreement does not constitute a guarantee by the Placement Agent

to arrange the placement of the Series 2022 Bonds. It is understood that the Placement Agent's obligations under this Placement Agreement are to use reasonable efforts throughout the term of this Placement Agreement to perform the services described herein. The Bank and the City acknowledge and agree that the Placement Agent is being retained to act solely as placement agent for the Series 2022 Bonds, and not as an agent, advisor or fiduciary to the Bank or the City, and that this Placement Agreement is not intended to confer rights or benefits on any member, affiliate, shareholder or creditor of the Bank or the City or any other person or entity or to provide the Bank or the City or any other person with any assurances that the transaction will be consummated.

The Placement Agent shall act as an independent contractor under this Placement Agreement, and not in any other capacity, including as a fiduciary. The Bank and the City acknowledge and agree that: (i) the transaction contemplated by the Placement Agreement is an arm's length, commercial transaction among the Bank, the City and the Placement Agent in which the Placement Agent is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the Bank or the City; (ii) the Placement Agent has not assumed any advisory or fiduciary responsibility to the Bank or the City with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Placement Agent has provided other services or is currently providing other services to the City on other matters); (iii) the only obligations the Placement Agent has to the Bank or the City with respect to the transaction contemplated hereby expressly are set forth in this Placement Agreement; and (iv) the Bank and the City have consulted their own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

Section 9. Governing Law. This Placement Agreement shall be governed by and construed in accordance with the laws of the State.

Section 10. Counterparts. This Placement Agreement may be executed in one or more counterparts, each of which shall be an original and all of which, when taken together, shall constitute but one and the same instrument.

Section 11. Binding Effect. This Placement Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns, except that no party hereto may assign any of its rights or obligations hereunder without the consent of the other party.

Section 12. Investor Letter. The Purchaser shall execute an Investor Letter in substance and in force attached hereto as Schedule IV.

Section 13. DTC and CUSIPs; No Rating or Offering Document. The Series 2022 Bonds shall NOT be registered with the Depository Trust Company, New York, New York and not assigned CUSIPs. The Series 2022 Bonds shall not be (i) assigned a separate rating by any municipal securities agency, or (ii) issued pursuant to any type of offering document or official statement.

IN WITNESS WHEREOF, the parties hereto have caused this Placement Agreement to be executed by their respective duly authorized representatives as of the day and year first above written.

**CREWS & ASSOCIATES, INC., as
Placement Agent**

By: _____
Managing Director

MISSISSIPPI DEVELOPMENT BANK

By: _____
Executive Director

ATTEST:

By: _____
Secretary

(SEAL)

CITY OF DIAMONDHEAD, MISSISSIPPI

(SEAL)

By: _____
Mayor, Board of Supervisors

ATTEST:

By: _____
City Clerk

SCHEDULE I

(to come)

REDEMPTION PROVISIONS

If the City directs the Bank to redeem Series 2022 Bonds pursuant to the City Bond Resolution, the Bank has agreed under the Indenture to accept redemption and redeem the Series 2022 Bonds as follows.

(a) ***Optional Redemption.*** On or after _____ 1, 20____, the Series 2022 Bonds are subject to optional redemption in whole or in part, in principal amounts and maturities selected by the City on any date, at par, plus accrued interest to the date of redemption. Partial redemptions shall be applied to installments of principal in inverse order of their respective due dates.

(b) ***Mandatory Sinking Fund Redemption.***

The Series 2022 Bonds maturing _____ 1, 20____ are subject to mandatory sinking fund redemption, in part, prior to maturity, or redemption, in whole, as otherwise provided in the Indenture on each _____ 1, in each of the years set forth below, at one hundred percent (100%) of the principal amount so redeemed or paid, plus accrued interest as set forth below:

\$ _____
Term Bond Maturing _____ 1, 20__

Year	Principal Amount
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* **Final Maturity**

SCHEDULE II

TERM SHEET

SCHEDULE III

PURCHASE PRICE

Par Amount of Series 2022 Bonds

Total Purchase Price

**PURCHASE PRICE DUE TO MISSISSIPPI
DEVELOPMENT BANK**

Deposit to General Fund, Bond Issuance
Expense Account

Deposit to General Fund, Purchase Account

TOTAL

SCHEDULE IV

FORM OF INVESTOR LETTER

_____, 2022

Mississippi Development Bank
Jackson, Mississippi

Mayor and City Council
City of Diamondhead, Mississippi

Butler Snow LLP
Ridgeland, Mississippi

Crews & Associates, Inc.
Memphis, Tennessee

Re: \$_____,000 Mississippi Development Bank Special Obligation Bonds, Series 2022 (City of Diamondhead, Mississippi General Obligation Bond Project)

Ladies and Gentlemen:

The undersigned, a duly authorized officer of _____ (the "**Purchaser**"), hereby certifies and acknowledges that in connection with the purchase by it of a portion of the \$_____,000 Mississippi Development Bank Special Obligation Bonds, Series 2022 (City of Diamondhead Mississippi General Obligation Bond Project) (the "**Series 2022 Bonds**"), that:

1. The Purchaser has reviewed and agrees to the terms and provisions set forth in the Series 2022 Bonds, the Trust Indenture, dated _____, 2022 (the "**Indenture**"), by and between the Mississippi Development Bank and Trustmark National Bank, Jackson, Mississippi, as trustee and the resolution adopted by the Mayor and City Council of City of Diamondhead, Mississippi (the "**City**") on September 6, 2022 (the "**Bond Resolution**").

2. The Purchaser has, without reliance on others, conducted its own investigations, to the extent it deems satisfactory or sufficient, into matters relating to the business, properties, management, and financial position and results of operations of the City in connection with the issuance by the City of the Series 2022 Bonds; it has received such information concerning the City as it deems to be necessary in connection with its purchase of the Series 2022 Bonds and the payment of the Series 2022 Bonds by the City; and during the course of this transaction and prior to the purchase of the Series 2022 Bonds, it has been provided with the opportunity to ask questions of and receive answers from representatives of the City concerning the terms and conditions of the offering of the Series 2022 Bonds, and to obtain any additional information needed in order to verify the accuracy of the information obtained.

3. The Purchaser has sufficient knowledge and experience in financial and business matters, including purchase and ownership of taxable and tax-exempt municipal and other obligations, to be able to, without reliance on others, evaluate the risks and merits of the investment represented by the purchase of the Series 2022 Bonds.

4. The Purchaser is aware that certain economic and political variables could affect the security of its investment in the Series 2022 Bonds and the ability of the City to pay the

debt service on the Series 2022 Bonds and the Purchaser is able to bear the economic risks of such investment.

5. The Purchaser is an institutional “accredited investor” as defined in Regulation D promulgated under the Securities Act of 1933, as amended (the “**1933 Act**”) and/or a “qualified institutional buyer” within the meaning of Rule 144A under the 1933 Act.

6. The Purchaser hereby certifies that it is purchasing the Series 2022 Bonds for its own account as evidence of a privately placed and negotiated sale of the Series 2022 Bonds and not for resale at a profit, and that it is its present intention to hold the Series 2022 Bonds to maturity or earlier redemption in accordance with Rule G-34 of the Municipal Securities Rulemaking Board; provided, however, that the Purchaser reserves the right to sell participation interests in or otherwise dispose of the Series 2022 Bonds in the future as it chooses. The Purchaser agrees that it will not sell, transfer, assign, or otherwise dispose of the Series 2022 Bonds or such ownership interests therein (a) unless it obtains from the purchaser and delivers to the City either (i) a letter similar in form and substance to this letter, or (ii) a written acknowledgement that such purchaser is either (1) an institutional “accredited investor” within the meaning of Rule 501(a) promulgated under the 1933 Act, or (2) a “qualified institutional buyer” as defined in Rule 144A promulgated under the 1933 Act; and (b) except in compliance with the applicable provisions of the 1933 Act, the Securities Exchange Act of 1934, as amended (the “**1934 Act**”), any rules and regulations promulgated under either the 1933 Act or the 1934 Act, and the applicable securities laws of any other jurisdiction, and in connection therewith, the Purchaser agrees that it shall furnish to any purchaser of the Series 2022 Bonds all information required by applicable law.

7. The Purchaser acknowledges that it has not been provided with any information from Butler Snow LLP (“**Bond Counsel**”), other than Bond Counsel's Reliance Opinion or Crews & Associates, Inc. (the “**Placement Agent**”) and has not in any way relied upon Bond Counsel or the Placement Agent for information about the City in connection with its purchase of the Series 2022 Bonds.

8. The Purchaser acknowledges that no application for a rating for the Series 2022 Bonds from a nationally recognized rating agency has been made and none is expected to be made.

9. The Purchaser has been informed and understands that (a) no official statement has been prepared in connection with the sale and delivery of the Series 2022 Bonds, (b) the Series 2022 Bonds are not subject to any continuing disclosure undertaking pursuant the SEC Rule 15c-2(12) and (c) the Series 2022 Bonds shall not be assigned a separate rating by any municipal securities rating agency.

10. The Purchaser acknowledges that the Series 2022 Bonds do not constitute a debt of the State of Mississippi or any political subdivision thereof except for the City. The Series 2022 Bonds represent a pledge of the full faith, credit and taxing power of the City as more particularly described in the Series 2022 Bonds and the Bond Resolution.

11. The representations in this Investor Letter shall not relieve the City from any obligation to disclose any information required by applicable law.

12. This Investor Letter will constitute an agreement with respect to the matters herein contained as of the date hereof and is expressly for the benefit of the City, Bond Counsel and the Placement Agent, and may not be relied upon by any other party.

13. The Purchaser represents and warrants that the execution of this Investor Letter has been duly authorized by the Purchaser and that the Investor Letter has been duly executed by an authorized officer thereof.

14. The Purchaser and its representatives are not registered municipal advisors and do not provide advice to municipal entities or obligated persons with respect to municipal financial products or the issuance of municipal securities (including regarding the structure, timing, terms and similar matters concerning municipal financial products or municipal securities issuances) or engage in the solicitation of municipal entities or obligated persons for the provision by non-affiliated persons of municipal advisory services and/or investment advisory services. With respect to this letter and any other information, materials or communications provided by the Purchaser: (a) the Purchaser and its representatives are not recommending an action to any municipal entity or obligated person; (b) the Purchaser and its representatives are not acting as an advisor to any municipal entity or obligated person and do not owe a fiduciary duty pursuant to Section 15B of the 1934 Act and the related final rules (the "**Municipal Advisor Rules**"), to any municipal entity or obligated person with respect to this letter, any other information, materials or communications; (c) the Purchaser and its representatives are acting for their own interests; and (d) the City has been informed that it should discuss this letter and any such other information, materials or communications with any and all internal and external advisors and experts that the City deems appropriate before acting on this letter or any such other information, materials or communication.

15. In connection with the Purchaser's purchase of the Series 2022 Bonds: (a) the Purchaser is acting in an arm's length commercial transaction; (b) the Purchaser and its representatives and affiliates have financial and other interests that differ from those of the City; (c) the Purchaser is purchasing the Series 2022 Bonds for its own account in its normal and customary business practice; and (d) if the City would like a municipal advisor in this transaction that has legal fiduciary duties to it, it is free to engage a municipal advisor to serve in that capacity. In entering into the transaction evidenced by the Series 2022 Bonds, the Purchaser is relying on the "bank exemption" to the Municipal Advisor Rules.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the Purchaser has hereunto set its hand as of this ____ day of _____ 2022.

_____, **as Purchaser**

By _____

Title _____

[Signature Page to Investor Letter]