

There came on for consideration the matter of providing financing for various capital improvements for the City of Diamondhead, Mississippi, and after a discussion of the subject matter, Councilperson \_\_\_\_\_ offered and moved the adoption of the following resolution:

**RESOLUTION DECLARING THE INTENTION OF THE CITY COUNCIL OF THE CITY OF DIAMONDHEAD, MISSISSIPPI (THE "CITY"), TO EITHER ISSUE GENERAL OBLIGATION BONDS OF THE CITY IN ACCORDANCE WITH SECTION 21-33-301 *ET SEQ.*, MISSISSIPPI CODE OF 1972, AS AMENDED AND SUPPLEMENTED (THE "CITY BOND ACT"), ISSUE A GENERAL OBLIGATION BOND OF THE CITY FOR SALE TO THE MISSISSIPPI DEVELOPMENT BANK OR ENTER INTO A LOAN WITH THE MISSISSIPPI DEVELOPMENT BANK, ALL IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED SIX MILLION DOLLARS (\$6,000,000) TO RAISE MONEY FOR THE PURPOSE OF (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 PURPOSES AUTHORIZED BY SECTION 31-25-1 *ET SEQ.*, MISSISSIPPI CODE OF 1972, AS AMENDED AND SUPPLEMENTED, (THE "BANK ACT" AND, TOGETHER WITH THE CITY BOND ACT, THE "ACT"), INCLUDING FUNDING CAPITALIZED INTEREST, IF NECESSARY, AND (VI) FOR OTHER AUTHORIZED PURPOSES UNDER THE ACT, INCLUDING PAYING FOR COSTS OF BORROWING (COLLECTIVELY, THE "CITY BOND PROJECT"); AND FOR RELATED PURPOSES.**

**WHEREAS**, the City Council (the "Governing Body") of the City of Diamondhead, Mississippi (the "City"), acting for and on behalf of the City, is authorized by Sections 21-33-301 *et seq.*, Mississippi Code of 1972, as amended and supplemented from time to time (the "City Bond Act"), to issue general obligation bonds for the purposes set forth therein, including, but not limited to, (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 purposes authorized by Section 31-25-1 *et seq.*, Mississippi Code of 1972, as amended and supplemented, (the "Bank Act" and, together with the City Bond Act, the "Act"), including funding capitalized interest, if necessary, and (vi) for other authorized purposes under the Act, including paying for costs of borrowing (collectively, the "City Bond Project") and

**WHEREAS**, the Governing Body, acting for and on behalf of the City, is also authorized under the Bank Act, and other applicable laws of the State, to (a) issue a general obligation bond of the City to be sold to the Mississippi Development Bank (the "Bank") to finance the costs of the City Bond Project, or (b) enter into a loan or loans with the Bank to borrow money to finance the costs of the City Bond Project; and

**WHEREAS**, the City Bond Project is in accordance with and in furtherance of the provisions of the Act; and

**WHEREAS**, the Governing Body is authorized pursuant to the Act to provide funding for the costs of the Project either through the issuance of (a) general obligation bonds of the City in a total aggregate principal amount of not to exceed Six Million Dollars (\$6,000,000) (the "Bonds"), (b) a general obligation bond of the City to be sold to the Bank in a total aggregate principal amount of not to exceed Six Million Dollars (\$6,000,000) (the "City Bond"), or (c) by entering into a loan or loans with the Bank to borrow money from the Bank in a total principal amount not to exceed Six Million Dollars (\$6,000,000) (the "Loan"); and

**WHEREAS**, the assessed value of all taxable property within the City, according to the last completed assessment for taxation, was Ninety Four Million Nine Hundred Sixty Three Thousand Two Hundred Dollars (\$94,963,200), and the City had outstanding bonded and floating indebtedness as subject to the fifteen percent (15%) debt limit prescribed by Section 21-33-303 of the City Bond Act, as amended, in the amount of Zero Dollars (\$0), and outstanding bonded and floating indebtedness as subject to the twenty percent (20%) debt limit prescribed by Section 21-33-303 of the City Bond Act, in the amount of Zero (\$0); and

**WHEREAS**, the Bonds, the City Bond or the Loan, when added to the outstanding bonded indebtedness of the City, will not result in bonded indebtedness, exclusive of indebtedness not subject to the aforesaid fifteen percent (15%) debt limit, of more than fifteen percent (15%) of the assessed value of all taxable property within the City, will not result in indebtedness, both bonded and floating, exclusive of indebtedness not subject to the aforesaid twenty percent (20%) debt limit prescribed by Section 21-33-303 of the City Bond Act, in excess of twenty percent (20%) of the assessed value of all taxable property within the City, and will not exceed any constitutional or statutory limitation upon indebtedness which may be incurred by the City; and

**WHEREAS**, there has been no increase in said bonded and floating general obligation indebtedness of the City since the date of this resolution; and

**WHEREAS**, it would be in the best interest of the City for the Governing Body to provide funding for the costs of the City Bond Project by borrowing money through the issuance of the Bonds or the City Bond or by entering into the Loan; and

**WHEREAS**, the City reasonably expects that it will incur expenditures in connection with the Project for which the City intends to reimburse itself with the proceeds of the Bonds, the City Bond or the Loan; and

**WHEREAS**, the Governing Body is authorized and empowered by the City Bond Act and/or the Bank Act to issue the Bonds or the City Bond or to enter into the Loan for the purposes

herein set forth and there are no other available funds on hand or available from regular sources of income for such purposes.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY, ACTING FOR AND ON BEHALF OF THE CITY, AS FOLLOWS:**

**SECTION 1.** The Governing Body, acting for and on behalf of the City, hereby declares its intention to either (a) issue and sell the Bonds pursuant to the City Bond Act in an aggregate principal amount not to exceed Six Million Dollars (\$6,000,000), (b) issue and sell the City Bond to the Bank pursuant to the Act in an aggregate principal amount not to exceed Six Million Dollars (\$6,000,000), or (c) enter into the Loan with the Bank pursuant to the Act in a principal amount not to exceed Six Million Dollars (\$6,000,000).

**SECTION 2.** The Bonds or the City Bond will be issued, or the Loan will be entered into for the purpose of financing the City Bond Project, as authorized by the Act.

**SECTION 3.** The Bonds or the City Bond may be issued in one or more series and, if issued, will be general obligations of the City payable as to principal and interest out of and secured by an irrevocable pledge of the avails of a direct and continuing tax to be levied annually without limitation as to time, rate or amount upon all the taxable property within the geographical limits of the City. The Loan will be payable from available revenues of the City and will not constitute an indebtedness of the City within the meaning of any constitutional or statutory restrictions, limitations, or provisions, and the taxing power of the City will not be pledged to the payment of the Loan.

**SECTION 4.** The Governing Body proposes to direct the issuance of all or any portion of the Bonds or the City Bond or to authorize the Loan in the amount and for the purposes and secured as aforesaid at a meeting of the Governing Body to be held at its usual meeting place located at the City Hall in the City, located at 5000 Diamondhead Circle, Diamondhead, Mississippi, at the hour of 6:00 o'clock p.m. on July 19, 2022, or at some meeting or meetings subsequent thereto; provided, however, that if ten percent (10%) or Fifteen Hundred (1500), whichever is less, of the qualified electors of the City shall file a written protest with the City Clerk against the issuance of the Bonds or the City Bond or the authorization of the Loan on or before the aforesaid date and hour, then the Bonds or the City Bond shall not be issued or the Loan shall not be entered into unless approved at an election on the question thereof called and held as is provided by law; provided, further that if no protest is filed, then the Bonds or the City Bond may be issued and sold in one or more series or the City may enter into the Loan without an election on the question of the issuance thereof at any time within a period of two (2) years after July 19, 2022.

In full compliance with the City Bond Act, the City Clerk is hereby directed to (i) publish a copy of this resolution once a week for at least three (3) consecutive weeks in *The Sea Coast Echo*, a newspaper published in Bay St. Louis, Hancock County, Mississippi, and having a general circulation in the City and qualified under the provisions of Section 13-3-31, Mississippi Code of 1972, as amended, with the first publication being not less than twenty-one (21) days prior to the date set forth in Section 4 of this resolution, and the last publication being made not more than seven (7) days prior to such date; and (ii) post a copy of this resolution in at least three (3) public places within the City for at least twenty-one (21) days prior to the date set forth in Section 4 of this resolution.

**SECTION 5.** The City Clerk is hereby directed to procure from the publisher of the aforesaid newspaper the customary proof of the publication of this resolution and the required notice and have the same before the Governing Body on the date and hour specified in Section 4 hereof.

**SECTION 6.** The City hereby declares its official intent to reimburse itself from the proceeds of the Bonds, the City Bond or the Loan for expenses incurred with respect to the Project subsequent to the date of this resolution. This resolution is intended as a declaration of official intent under Treasury Regulation 1.150-2. The Bonds, the City Bond or the Loan will not exceed the aggregate principal amount of Six Million Dollars (\$6,000,000).

**SECTION 7.** If any one or more of the provisions of this resolution shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any of the other provisions of this resolution, but this resolution shall be construed and enforced as if such illegal or invalid provision or provisions had not been contained herein.

Councilperson \_\_\_\_\_ seconded the motion to adopt the foregoing resolution, and the question being put to a roll call vote, the result was as follows:

Mayor Nancy Depreo	voted: ____
Councilperson Gerard Maher	voted: ____
Councilperson Shane Finley	voted: ____
Councilperson Anna Liese	voted: ____
Councilperson John Cumberland	voted: ____
Councilperson Charles S. Clark	voted: ____

The motion having received the affirmative vote of a majority of the members of the Governing Body present, being a quorum of the Governing Body, the Mayor declared the motion carried and the resolution adopted this \_\_\_\_ day of June 2022.

(SEAL)

\_\_\_\_\_  
Nancy Depreo, Mayor  
City of Diamondhead, Mississippi

ATTEST:

\_\_\_\_\_  
Jeannie Klein, City Clerk  
City of Diamondhead, Mississippi

**PUBLISH: June 22, 2022, June 29, 2022, July 6, 2022 and July 13, 2022**