

RESOLUTION AUTHORIZING THE CITY COUNCIL (THE "GOVERNING BODY") OF THE CITY OF DIAMONDHEAD, MISSISSIPPI (THE "CITY"), TO ACQUIRE, BY DONATION, A CERTAIN EASEMENT LOCATED WITHIN THE CITY FOR CONSTRUCTION OF A WALKING TRAIL AND PIER

WHEREAS, the City Council (the "Governing Body") of the City of Diamondhead, Mississippi (the "City"), acting for and on behalf of the City, hereby finds and determines as follows:

1. The City is in need of acquiring a certain easement for the construction of a walking trail and pier that is currently owned by Purcell Co., Inc.
2. The City is authorized to acquire property pursuant to Miss. Code Ann. §21-17-1.
3. Purcell Co., Inc. has expressed a willingness to donate the easement legally described in the Right of Entry and Permanent Drainage Easement attached hereto collectively as Exhibit "A" to this resolution
4. The City is willing to accept the aforementioned easement as a donation.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY, AS FOLLOWS:

SECTION 1. That the Governing Body of the City will accept the donation of the aforementioned easement as it are necessary for the public good.

SECTION 2. That the Governing Body of the City does hereby authorize the City Attorney to prepare any and all documentation related to the acquisition of the aforementioned easement, for the City Manager to execute any necessary documentation to effectuate the acquisition of the subject easement and, for the Mayor to execute the documents on behalf of the City attached collectively hereto as Exhibit "A."

The above and foregoing resolution, after having been first reduced to writing, was introduced by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_ and the question being put to a roll call vote, the result was as follows:

Resolution 2023-054  
Agenda Item 2023-428

	Aye	Nay	Absent
Councilmember Finley	___	___	___
Councilmember Liese	___	___	___
Councilmember Cumberland	___	___	___
Councilmember Maher	___	___	___
Mayor Depreo	___	___	___

The motion having received the affirmative vote of a majority of all of the members of the Governing Body, the Mayor declared the motion carried and the resolution adopted, this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
NANCY DEPREO, MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

(SEAL)

Grantor:

Purcell Co., Inc.  
4401 E. Aloha Drive  
Diamondhead, MS 39525  
(228) 255-7773

Grantee:

City of Diamondhead  
5000 Diamondhead Circle  
Diamondhead, MS 39525  
(228) 861-1765

Prepared by and Return to:

Derek R. Cusick, Esq.  
Cusick & Williams, PLLC  
1414 25th Avenue  
Post Office Box 4008  
Gulfport, MS 39502  
(228) 324-2652

**STATE OF MISSISSIPPI  
COUNTY OF HANCOCK**

**INDEXING INSTRUCTIONS  
Part of Government Lots 1 and 2,  
Section 3, Township 8 South,  
Range 14 West, Hancock County,  
Mississippi**

**TITLE NOT EXAMINED**

**RIGHT OF ENTRY AND EASEMENT**

FOR AND IN CONSIDERATION of the sum of Ten and no/100 Dollars (\$10.00), cash in hand paid, and other good and valuable considerations, the undersigned **Purcell Co., Inc.**, the owner of the property listed above (hereafter "**Owner**"), hereby grants a Right of Entry and an

Easement to **City of Diamondhead, Mississippi** (hereinafter "**City**"). The Easement shall be described as follows:

**See survey and legal description attached hereto and made a part hereof as Exhibit "A".**

Owner also hereby further grants a Right of Entry for the subject property to the City, its agents or assigns, for the construction and maintenance of said easement.

It is understood that the easement is to be used for the construction of a walking trail, kayak launch and pier for use by the public.

Owner hereby further agrees not to construct, plant or place anything within the Easement that will interfere with the City's easement rights. This Easement shall be limited to and for the exclusive use of City, its agents or assigns, for its public welfare needs; specifically, for a kayak launch.

It is further acknowledged that the Easement will terminate only upon any of the following conditions:

1. The abandonment of the Easement by the City; or,
2. The use of the Easement by the City for any other use than a walking trail, kayak launch and pier for use by the public.

The City represents to the Owner that the City has in place, and will continue to maintain during the above-referenced period, a contract with its insurance carrier, workers' compensation insurance, medical benefits insurance and other insurance required and sufficient to cover any personal injuries or property damage or other loss of any type and description that may occur to any person(s) or any property as a result of the right of entry to perform work on the easement property.

The City does hereby irrevocably and unconditionally agrees to hold harmless, defend, and indemnify the Owner and its parent, subsidiaries, affiliates, successors, and its and their past, present, or future directors, officers, employees, representatives, shareholders, agents, counsel, fiduciaries, and its or their respective heirs, executors, successors, assigns, or administrators, from and against any and all claims, demands, damages, liens, losses, expenses, legal fees, actions or causes of action, lawsuits and/or appeals, of any kind and character which may arise as a result of or relating to the right to perform work on the easement property, or the use of the property as a hiking trail, pier and/or kayak launch by the general public.

It is further acknowledged that the drafter of this instrument performed no title search prior to preparing this instrument.

WITNESS our signatures on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PURCELL CO., INC.

By: \_\_\_\_\_  
Artis E. James, Jr., President

CITY OF DIAMONDHEAD

By: \_\_\_\_\_  
Jon McCraw, City Manager



STATE OF MISSISSIPPI

COUNTY OF HANCOCK

PERSONALLY APPEARED BEFORE ME, the undersigned authority, a notary public in and for the aforesaid jurisdiction, the within named **Artis E, James, Jr.**, who acknowledge that he is the **President of Purcell Co., Inc.**, and in said capacity he signed, executed, and delivered the above and foregoing instrument on the day and year therein set forth and mentioned, after first having been duly authorized to do so.

GIVEN UNDER MY HAND AND OFFICIAL SEAL on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

STATE OF MISSISSIPPI

COUNTY OF HANCOCK

PERSONALLY APPEARED BEFORE ME, he undersigned authority, a notary public in and for the aforesaid jurisdiction, the within named **Jon McCraw**, who acknowledged that he is the **City Manager of the City of Diamondhead, Mississippi**, and in said capacity he signed, executed, and delivered the above and foregoing instrument on the day and year therein set forth and mentioned, after first having been duly authorized to do so.

GIVEN UNDER MY HAND AND OFFICIAL SEAL on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[SEAL]

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_





SURVEY DESCRIPTION:

COMMENCING AT A 1/2" IRON ROD IN A DITCH AT THE SOUTHERNMOST CORNER OF LOT 29, BLOCK 1, AMENDED PLAT OF UNIT 2, DIAMONDHEAD, PHASE 1, HANCOCK COUNTY, MISSISSIPPI AND RUN N25°25'15"W ALONG THE WESTERN LINE OF LOT 29 FOR 128.75 FEET TO A CAPPED 1/2" IRON ROD SET, AT THE POINT OF BEGINNING. THENCE RUN S88°00'05"W FOR 54.00 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN S01°59'55"E FOR 36.71 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN S88°00'05"W FOR 31.71 FEET TO THE CENTERLINE OF MONTJOY CREEK; THENCE RUN ALONG THE CENTERLINE OF MONTJOY CREEK THE FOLLOWING 6 COURSES: S43°41'39"E FOR 136.63 FEET, S63°36'02"E FOR 170.76 FEET, N86°38'54"E FOR 203.63 FEET, N79°55'46"E FOR 273.33 FEET, N72°52'07"E FOR 327.00 FEET, N79°52'06"E FOR 304.22 FEET TO THE WEST RIGHT OF WAY OF DIAMONDHEAD DRIVE NORTH; THENCE RUN S00°00'43"E ALONG SAID RIGHT OF WAY FOR 194.53 FEET TO A CAPPED 1/2" IRON ROD SET AT THE NORTHEAST CORNER OF LOT I, BLOCK 7, UNIT 10, DIAMONDHEAD, PHASE 2; THENCE LEAVING SAID RIGHT OF WAY RUN N89°34'41"W ALONG THE NORTH LINE OF LOT 1 FOR 50.00 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN N00°00'43"W FOR 134.43 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN S75°50'04"W FOR 568.69 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN S79°57'41"W FOR 278.10 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN S86°24'43"W FOR 218.27 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN N63°36'02"W FOR 194.64 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN N43°41'39"W FOR 219.91 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN N13°42'56"W FOR 464.50 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN N41°54'56"W FOR 397.97 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN S52°06'13"W FOR 142.70 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN N80°02'19"W FOR 187.75 FEET TO A CAPPED 1/2" IRON ROD SET; THENCE RUN N66°43'58"W FOR 206.09 FEET TO A POINT IN DEVIL'S ELBOW; THENCE RUN N21°38'53"E FOR 50.00 FEET TO A POINT IN DEVIL'S ELBOW ON A PROJECTION OF THE CENTERLINE OF MONTJOY CREEK; THENCE RUN S76°29'07"E ON SAID PROJECTION AND ALONG THE CENTERLINE OF MONTJOY CREEK FOR 130.01 FEET; THENCE CONTINUE ALONG THE CENTERLINE OF MONTJOY CREEK THE FOLLOWING 7 COURSES: S50°04'32"E FOR 76.76 FEET, S84°07'22"E FOR 171.20 FEET, N44°06'02"E FOR 133.11 FEET, S74°39'31"E FOR 51.18 FEET, S41°30'52"E FOR 416.08 FEET, S17°35'29"E FOR 190.82 FEET, S11°16'08"E FOR 254.50 FEET; THENCE LEAVING SAID CENTERLINE RUN N88°00'05"E FOR 114.06 FEET TO A CAPPED 1/2" IRON ROD ON THE WEST LINE OF LOT 28, BLOCK 1, AMENDED PLAT OF UNIT 2, DIAMONDHEAD, PHASE 1; THENCE RUN S25°25'15"E ALONG THE WEST LINE OF LOT 28 FOR 50.45 FEET BACK TO THE POINT OF BEGINNING. SAID PARCEL OF LAND IS A PART OF GOVERNMENT LOTS 1 AND 2, SECTION 3, TOWNSHIP 8 SOUTH, RANGE 14 WEST AND IN GOVERNMENT LOT 3, SECTION 34, TOWNSHIP 7 SOUTH, RANGE 14 WEST, HANCOCK COUNTY, MISSISSIPPI AND CONTAINING 4.04 ACRES, MORE OR LESS.