

The Mayor and City Council of the City of Diamondhead, Mississippi (the "City"), took up for consideration the matter of employing certain professionals in connection with the tax increment financing bonds that may be issued in connection with various projects within the City. After a discussion of the subject, Councilmember Morgan offered and moved the adoption of the following resolution:

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DIAMONDHEAD, MISSISSIPPI (THE "CITY"), AUTHORIZING THE EMPLOYMENT OF CERTAIN PROFESSIONALS IN CONNECTION WITH THE PREPARATION OF A REDEVELOPMENT PLAN, A TAX INCREMENT FINANCING PLAN, A DEVELOPMENT AGREEMENT, AN INTERLOCAL AGREEMENT AND/OR THE ISSUANCE OF TAX INCREMENT FINANCING BONDS OF THE CITY TO RAISE MONEY FOR THE PURPOSE OF PROVIDING FUNDS FOR CERTAIN SITE AND INFRASTRUCTURE IMPROVEMENTS FOR VARIOUS PROJECTS WITHIN THE CITY, AND FOR RELATED PURPOSES.

WHEREAS, the Mayor and City Council of the City of Diamondhead, Mississippi (the "Governing Body" of the "City" or "Issuer"), hereby finds, determines, adjudicates and declares as follows:

1. The Mississippi Tax Increment Financing Act, Sections 21-45-1 *et seq.*, Mississippi Code of 1972, as amended (the "Act"), authorizes municipalities and counties in the State of Mississippi to undertake and carry out redevelopment projects (as defined in the Act) with the use of Tax Increment Financing, as set forth in detail in the Act.

2. The Governing Body of the City desires to offer tax increment financing as an incentive for development in the City and in connection therewith desires to employ bond counsel to assist it with adopting and approving a redevelopment plan, tax increment financing plan, development agreement, interlocal agreement and related documents all in relation to the issuance of tax increment financing bonds (the "Bonds"), as authorized by the Act, to assist developers in financing all or a portion of the qualified improvements allowed by the Act (the "Improvements").

3. That in order to prepare the necessary resolutions and documents pursuant to the Act, including the negotiation of a development agreement and the sale and issuance of the Bonds, it is in the best interest of the City to authorize Butler Snow LLP, Ridgeland, Mississippi, as Bond Counsel, to prepare and distribute such resolutions and documents necessary in order to facilitate compliance with the Act, including the preparation and/or review of the redevelopment plan, tax increment financing plans, development agreements, inter-local agreements and other necessary documents to facilitate the sale and issuance of such Bonds subject to the approval of the Governing Body of the City.

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

SECTION 1. The Governing Body hereby declares its intention to issue the Bonds of the City in one or more series to raise money for the Improvements.

SECTION 2. The Governing Body herein employs Butler Snow LLP, Ridgeland, Mississippi, as Bond Counsel, and authorizes them to prepare and distribute such resolutions and documents necessary in order to facilitate compliance with the Act, including the preparation and/or review of the redevelopment plan, tax increment financing plans, development agreements, inter-local agreements and other necessary documents to facilitate the sale and issuance of such Bonds subject to the approval of the Governing Body of the City.

SECTION 3. The Mayor and City Manager of the City are hereby authorized and directed to execute and deliver an engagement letter or such other documents as may be necessary to effectuate the purposes of this Resolution.


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

Mayor Shafer IV	voted: <u>Absent</u>
Councilmember L'Ecuyer	voted: <u>Absent</u>
Councilmember Depreo	voted: <u>Absent</u>
Councilmember Moran	voted: <u>Absent</u>
Councilmember Morgan	voted: <u>Absent</u>
Councilmember Clark	voted: <u>Absent</u>

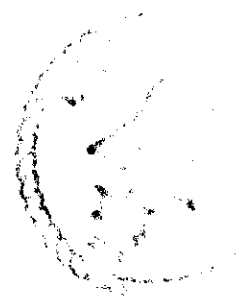
The motion having received the affirmative vote of a majority of the members present, the Mayor declared the motion carried and this Resolution adopted this the 5th day of May, 2020.


MAYOR

ATTEST:


CITY CLERK





BUTLER | SNOW

May 5, 2020

Mayor and City Council
City of Diamondhead, Mississippi
5000 Diamondhead Circle
Diamondhead, Mississippi 39525

Re: Bond Counsel Representation for Tax Increment Financing Bonds (the “**Bonds**”)

Dear Mayor and Councilmembers:

The purpose of this engagement letter is to set forth certain matters concerning the services we will perform as Bond counsel to the City of Diamondhead, Mississippi (the “**City**”) in connection with the issuance of the tax increment financing bonds. We understand that the City is considering issuing the Bond to provide incentives for development within the City by providing funds for infrastructure improvements related to various projects (the “**Project**”) pursuant to Sections 21-45-1 *et seq.*, Mississippi Code of 1972, as amended and/or supplemented from time to time (the “**Act**”), that may be secured by the City’s pledge of all or a portion of the incremental increase in real and personal property ad valorem taxes and sales taxes together with a pledge by Hancock County, Mississippi (the “**County**”), of all or a portion of the incremental increase in real and personal property ad valorem taxes all generated from the tax increment financing district established for the Project as authorized by and provided for in the Act.

SCOPE OF ENGAGEMENT

In connection with this engagement, we expect to perform the following duties:

1. Subject to the completion of proceedings to our satisfaction, render our legal opinion (the “**Bond Opinion**”) regarding the validity and binding effect of the Bond, the source of payment and security for the Bond, and the excludability of interest on the Bond from gross income for federal and State of Mississippi (the “**State**”) income tax purposes;
2. Prepare and review documents necessary or appropriate for the authorization, issuance and delivery of the Bond, including and as applicable the City’s Redevelopment Plan, the City’s TIF Plan, the County’s TIF Plan, the bond resolution, the development and reimbursement agreement (the “**Development Agreement**”), the inter-local agreement between the City and the County or other agreements pursuant to which the Bonds will be issued, and coordinate the authorization and execution of such documents;

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3. Assist the City in seeking from any other governmental authorities such approvals, permissions, and exemptions as we determine are necessary or appropriate in connection with the authorization, issuance and delivery of the Bond, except that we will not be responsible for any required Blue Sky filings;

4. Review legal issues relating to the structure of the Bond issue;

5. Pursue validation proceedings under State law;

6. If applicable, assist the City in preparing the official statement (the "**Official Statement**") and subject to satisfactory completion of our review, provide to the Issuer written advice that in the course of our participation, no information has come to our attention that leads us to believe that the Official Statement, as of its date (except for financial statements, other statistical data, feasibility reports and statements of trends and forecasts and book-entry language contained in the Official Statement and its appendices, as to which we will express no opinion), contains any untrue statement of material fact or omits to state any material fact necessary to make the statements in the Official Statement, in light of the circumstances under which they were made, not misleading. Provided, however, if the Official Statement is required then there will be an additional charge of not to exceed \$5,000 based on our time to draft the document that is in addition to the fees quoted below;

7. If necessary, assist the City in presenting information to bond rating organizations and providers of credit enhancement relating to legal issues affecting the issuance of the Bond;

8. If applicable, prepare and review the notice of sale pertaining to the competitive sale of the Bond; and

9. If applicable, draft the continuing disclosure agreement of the City.

Our Bond Opinion will be addressed to the City and will be delivered by us on the date of delivery of the Bond. The Bond Opinion will be based on facts and laws existing as of its date. In rendering our Bond Opinion, we will rely upon the certified proceedings and other certifications of public officials and other persons furnished to us without undertaking to verify the same by independent investigation, and we will assume continuing compliance by the City with applicable laws relating to the Bond. During the course of this engagement, we will rely on you to provide us with complete and timely information on all developments pertaining to any aspect of the Bond and its security. We understand that you will direct members of your staff and other employees of the City to cooperate with us in this regard. In rendering our Bond Opinion, we will expressly rely upon other counsel as to due authorization, execution and delivery of Bond documents executed by the City.

Our duties in this engagement are limited to those expressly set forth above. Among other things, our duties under this engagement, without a separate engagement as may hereafter be agreed between the parties, do not include:

(a) Except as described in paragraph 6 above, assisting in the preparation or review of the Official Statement or any other disclosure document, if applicable, with respect to the Bond, or performing an independent investigation to determine the accuracy, completeness or sufficiency of any such document or rendering advice that the Official Statement or other disclosure document, if applicable, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading;

(b) Preparing request for tax rulings from the Internal Revenue Service ("IRS") or no action letters from the Securities and Exchange Commission ("SEC");

(c) Preparing Blue Sky or investment surveys with respect to the Bond;

(d) Drafting State constitutional or legislative amendments;

(e) Pursuing test cases or other litigation, such as contested validation proceedings;

(f) Making an investigation or expressing any view as to the creditworthiness of the City or the Bond;

(g) Except as described in paragraph 9 above and if applicable, assisting in the preparation of, or opining on, a continuing disclosure undertaking pertaining to the Bond or, after closing, providing advice concerning any actions necessary to assure compliance with any continuing disclosure undertaking;

(h) Representing the City in IRS examinations or inquiries, or SEC investigations;

(i) After closing, providing continuing advice to the City or any other party concerning any actions necessary to assure that interest paid on the Bond will continue to be excludable from gross income for federal income tax purposes (e.g., our engagement does not include rebate calculations for the Bond). Although our present engagement does not include post-issuance advice relating to the Bond, we would like to discuss with you a separate engagement involving post-issuance compliance matters for the Bond and other bond issues or notes that you may have issued on various occasions. This includes the drafting of a formal debt management policy and post-issuance tax compliance policy;

(j) Giving and/or providing any financial advice or recommendations concerning the issuance and/or structure of the Bond as mandated by SEC rules. It is our understanding that the City will either rely on its own personnel or employ a municipal advisor qualified under the SEC rules for such matters; or

(k) Addressing any other matters not specifically set forth above that is not required to render our Bond Opinion.

ATTORNEY-CLIENT RELATIONSHIP

Upon execution of this engagement letter, the City will be our client and an attorney-client relationship will exist between us. We understand that counsel to the City has been engaged by the City to assist with the issuance of the Bond, particularly as to the authorization, execution and delivery of bond documents. We assume that all other parties will retain such counsel, as they deem necessary and appropriate to represent their interest in this transaction. We further assume that all other parties understand that in this transaction we represent only the City, we are not counsel to any other party, and we are not acting as an intermediary among the parties. Our services as bond counsel are limited to those contracted for in this letter, and the City's execution of this engagement letter will constitute an acknowledgment of those limitations. Our representation of the City will not affect, however, our responsibility to render an objective Bond Opinion.

Our representation of the City and the attorney-client relationship created by this engagement letter will be concluded upon issuance of the Bond. Nevertheless, subsequent to Closing, we will mail, if required, to the IRS the appropriate IRS Form 8038-G and prepare and distribute to the participants in the transaction a transcript of the proceedings pertaining to the Bond.

PROSPECTIVE CONSENT

As you are aware, Butler Snow represents many political subdivisions, companies and individuals. It is possible that during the time that we are representing the City, one or more of our present or future clients will have transactions with the City. It is also possible that we may be asked to represent, in an unrelated matter, one or more of the entities involved in the issuance of the Bond. We do not believe that such representation, if it occurs, will adversely affect our ability to represent you as provided in this letter, either because such matters will be sufficiently different from the issuance of the Bond so as to make such representations not adverse to our representation of you, or because the potential for such adversity is remote or minor and outweighed by the consideration that it is unlikely that advice given to the other client will be relevant to any aspect of the issuance of the Bond. Execution of this letter will signify the City's consent to our representation of others consistent with the circumstances described in this paragraph.

FEES

With these types of engagements, our representation generally occurs in two phases. The first phase of the engagement establishes the TIF District, sets the parameters for which the Bonds can be issued and how the developer can be reimbursed with Bond proceeds. This first phase normally includes the adoption and execution, as applicable, of the City and County TIF Plans, the

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Development Agreement, the inter-local agreement between the City and the County and related documents. The second phase of the engagement includes the actual issuance of the Bonds and typically occurs after the project has been completed. Between the first phase and the second phase of the engagement, there is normally a significant lapse in time as the Project is being constructed and then it generally must be opened prior to the issuance of the Bonds to make the Bonds marketable.

With respect to our engagement by the City during the first phase, our fee will be based upon our hourly rates. Please note that we will not charge the City for reviewing the Development Plan. Typically, our fees for the services provided for in the first phase range between \$7,500 and \$15,000 depending on the complexity of the Project. My current hourly rate is \$295. Troy Johnston and Sam Noblin will also work with me, and their current hourly rates are \$360 and \$215, respectively. We will also utilize others within firm where efficiency can be realized who will bill at their normal hourly rates. We will bill our time in 0.1/hour increments. Additionally, you will be billed for expenses, which includes our travel costs, deliveries, copies, transcripts, telephone charges, filing fees, computer-assisted research and other expenses pursuant to the Standard Billing Terms and Charges for Expenses attached hereto. Our fee for this first phase of the engagement will be invoiced and due on a monthly basis. All of our fees can be reimbursed to the City with the Bond proceeds.

Regarding the issuance of the Bonds, our fee will be negotiated at the time of the Bond issue and will be based upon: (i) our understanding of the terms, structure, size and schedule of the financing represented by the Bond; (ii) the duties we will undertake pursuant to this engagement letter; (iii) the time we anticipate devoting to the financing; and (iv) the responsibilities we will assume in connection therewith plus any of the fees with respect to the preparation of an official statement describe above in Paragraph 6, plus expenses, which includes our travel costs, deliveries, copies, transcripts, telephone charges, filing fees, computer-assisted research and other expenses.

If, for any reason, the Bond is not issued within eighteen (18) months of the execution of the Development Agreement or is completed without the rendition of our Bond Opinion, we will expect to be compensated on an hourly basis by you or the developer at our normal hourly rates for time actually spent plus out-of-pocket expenses as described above. To that end, we will include a provision in the Development Agreement obligating the developer to pay our fees and/or reimburse the City for our fees in the event such circumstances arise. Regardless, all of our fees can be reimbursed to the City with the Bond proceeds. Nevertheless and as stated above, our fee for the first phase of representation will be invoiced and due on a monthly basis, and our fee for serving as Bond Counsel will be invoiced and paid at the Closing of the Bonds out of Bond Proceeds.

RECORDS

At your request, papers and property furnished by you will be returned promptly upon receipt of payment for outstanding fees and client charges. Our own files, including lawyer work

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product, pertaining to the transaction will be retained by us. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to dispose of any documents or other material retain by us after the termination of this engagement.

If the foregoing terms are acceptable to you, please so indicate by returning a copy of this engagement letter dated and signed by an authorized officer, retaining the original for your files. We look forward to working with you.

BUTLER SNOW LLP

Heather L. Smith

Heather Ladner Smith

Accepted and Approved:

CITY OF DIAMONDHEAD, MISSISSIPPI

By: _____

Mayor

Dated: _____

May 6, 2020

Authorized by Resolution of the Mayor and City Council dated May 5,

2020.

BUTLER SNOW LLP
STANDARD BILLING TERMS AND CHARGES FOR EXPENSES
As of January 1, 2020

Butler Snow LLP (the "Firm") will bill clients on a monthly basis for legal services, unless another arrangement is agreed to and approved in writing by the Firm and the Client. The Firm typically sends bills for legal services and expenses via the U.S. Postal Service or by e-mail. Electronic billing services may also be used by specific agreement.

It is our goal that our bills are easy to understand, simple, and reflect appropriate charges for the value our services provided. As such, we do not charge for many incidental costs or routine services. We are continually working to ensure that our bills are clear and understandable. Should you have questions about any aspect of your bill, please contact the Firm as soon as possible so that your concerns may be quickly resolved. The chart below spells out the complete details of our expense charges. Our bills are due upon receipt of the bill, unless other arrangements are agreed to in advance.

Any overpayments or duplicate payments the Firm receives that cannot be posted to an outstanding bill ("unapplied payments") will be deposited into the Firm's operating account upon receipt and posted as unapplied cash to the client's account. These unapplied payments will either be applied to a future bill or refunded to the client, whichever is appropriate.

Document Reproduction	No charge for routine reproduction (under 50 pages per day)
Normal sized documents (up to 11 x 17)	For reproduction in excess of 50 pages per day – Black & White: \$0.10/page Color: \$0.25/page Bates Labeling Electronic: \$0.05/page Manual: \$0.15/page
Oversize documents (size in excess of 11 x 17)	Charge for each page – no exclusion Black & white: \$6.00/page Color: \$30.00/page
Electronic Data Manipulation for reproduction	\$75 per hour
Document Scanning	No charge for routine scanning (except evidentiary materials) Bulk scanning of evidentiary documents: \$0.06/page (additional charge for document coding)
Oversize documents (size in excess of 11 x 17)	\$10.00/page
Wire Transfers	Outgoing: International: \$50.00/wire Domestic: \$25/wire
Data/Audio/Visual Duplication & Reproduction	CD/DVD: \$12.00 for each disc Portable Media Devices: Priced per data storage size
Electronically Store Information (Litigation Support Services)	Data Room: \$750.00/room Data Processing: \$50.00/gb per occurrence Data Storage: \$5.00/gb per month Document Review Hosting: \$15.00/gb per month Review user License Fees: \$80.00/user per month
Computerized Legal Research	No charge for basic research. \$50/search for public records, special treatises, briefs, motions and expert directory databases. Specialized research at actual cost with prior client approval
Electronic Retrieval of Court Documents	\$0.40/document
Fax and Long Distance Phone	No charge for calls or Fax transmissions within the United States. Non-domestic and conference calls charged at actual cost.
Travel (personal vehicle)	Current Standard Mileage Rate as allowed by the IRS
Messenger Delivery and Service of Subpoenas or Summons	Deliveries under 10 miles one way – No charge 10-25 miles one way - \$30.00 Over 25 miles one way - \$10.00/hour plus mileage Service of Subpoenas/Summons - \$35.00 plus delivery
Overnight Package Delivery	Charged at actual cost per package
Postage	No charge for routine postage (under \$25.00 per day) Bulk mailing postage: at actual cost