

The Mayor and City Council of the City of Diamondhead, Mississippi, took up for consideration the matter of acquiring, renovating, financing, equipping and leasing public building as a City Hall for the City. After a discussion, Council Member Roberson offered and moved the adoption of the following resolution:

**RESOLUTION AUTHORIZING THE LEASE OF BUILDINGS, FACILITIES AND EQUIPMENT; APPROVING OTHER DOCUMENTS RELATING TO LEASE; AUTHORIZING CERTAIN ACTION BY CITY OFFICIALS.**

WHEREAS, the Mayor and City Council of the City of Diamondhead, Mississippi (the "Governing Body" of the "City"), acting for and on behalf of the City, does hereby find, determine, adjudicate and declare as follows:

1. On March 6, 2013, the Governing Body of the City adopted a resolution entitled "RESOLUTION STATING THE INTENT OF THE MAYOR AND CITY COUNCIL (THE "GOVERNING BODY") OF THE CITY OF DIAMONDHEAD, MISSISSIPPI (THE "CITY"), TO ACQUIRE, RENOVATE, FINANCE AND EQUIP A CITY HALL AND RELATED FACILITIES (THE "PROJECT") UNDER AUTHORITY OF SECTIONS 31-8-1 ET SEQ., MISSISSIPPI CODE OF 1972, AS AMENDED FROM TIME TO TIME (THE "ACT"), UNDER A LEASE BETWEEN THE CITY AND THE SOUTHERN MISSISSIPPI INVESTMENT COMPANY, INC., A NON-PROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF MISSISSIPPI (THE "CORPORATION"), CREATED FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, RENOVATING, FINANCING, EQUIPPING AND LEASING FACILITIES TO CERTAIN GOVERNMENTAL UNITS UNDER THE ACT; AND RESOLUTION EMPLOYING LOCAL COUNSEL AND APPROVING A SPECIAL COUNSEL AND A FINANCIAL ADVISOR TO THE CORPORATION IN CONNECTION WITH THE LEASE AND THE ISSUANCE OF CERTIFICATES OF PARTICIPATION (DIAMONDHEAD, MISSISSIPPI CITY HALL LEASE PURCHASE PROJECT), SERIES 2013 OR NEGOTIATING A LOAN AGREEMENT SECURED BY A NOTE WITH A TO BE DETERMINED LENDER TO FUND THE COST OF THE PROJECT" (the "Intent Resolution"), stating its intention to acquire, renovate, finance, equip and lease public buildings for the City including, but not limited to, a city hall and related facilities (the "Project") as set forth in the Intent Resolution and as authorized by Sections 31-8-1 et seq., Mississippi Code of 1972, as amended (the "Act");

2. The City hereby authorizes and ratifies a change to the reference to the corporation in the Intent Resolution to Southern Mississippi Investment Co., Inc. in-lieu of Southern Mississippi Investment Company, Inc.;

3. The City proposes to enter into a Ground Lease (as hereinafter defined) pursuant to which the City agrees to lease to the Southern Mississippi Investment Co., Inc. (the "Lessor") certain parcels of real property (the "Property");

4. The City and the Lessor propose to enter into a Lease and Option to Purchase (as hereinafter defined) pursuant to the Act and pursuant to which the Lessor agrees to lease the Property and certain public facilities including but not limited to a City Hall located on the Property to the City in consideration for which the City will make payments of base rental ("Base Rental") for the use and possession of the Project;

5. The City and the Lessor will enter into an Agency Agreement (as hereinafter defined) pursuant to which the City shall serve as agent of the Corporation in acquisition, renovation, equipping and construction of the Project;

6. The Lessor proposes to assign and transfer to Hancock Bank, Gulfport, Mississippi (the "Lender") certain of its rights, title and interest in and to the Ground Lease and the Lease, including its right to receive payments of Base Rental thereunder, by entering into an Assignment Agreement (as hereinafter defined); and

7. The Lessor and the Lender, with the consent and approval of City, propose to enter into a Loan Agreement (as hereinafter defined) pursuant to which the Lessor will execute and deliver a \$1,600,000 Promissory Note (City of Diamondhead, Mississippi Lease Purchase and City Hall Project), to be dated the date of delivery thereof (the "Note"), representing undivided proportionate interests in the Lease, including the right to receive payments of Base Rental thereunder.

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

**SECTION 1.** All capitalized terms not defined herein shall have the same meanings in this resolution as such terms are given in the Lease and the Loan Agreement.

**SECTION 2.** This resolution is adopted pursuant to the provisions of the Act.

**SECTION 3.** Pursuant to the Act, the Lease of the Project is awarded to the Southern Mississippi Investment Co., Inc. at an interest rate of Two and 21/100th Percent (2.21%) interest based on the proposal from Hancock Bank, Gulfport, Mississippi. An executed copy of the proposal by and between the Lender and the Lessor is attached hereto as **EXHIBIT A**.

**SECTION 4.** The total amount of Base Rental payments, less any premium received, if any, to be made by the City pursuant to the Lease is hereby established to be no greater than \$1,883,432.50, assuming a dated date of June 1, 2013; provided, however, if the Lessor and the City mutually agree on a delivery date for the Note prior to June 1, 2013, the total Lease payments will be adjusted according to the delivery date of the Note. In accordance with the proposal submitted by the Lessor, the Base Rental payments to be made by the City pursuant to the Lease, including the principal and interest components of each payment are established and finally set to be those amounts specified as such in Lessor's proposal, attached hereto and incorporated herein by reference.

**SECTION 5.** The forms of the Ground Lease (the "Ground Lease") and the Lease and Option to Purchase (the "Lease") each of which is to be dated the date of delivery thereof, and the Agency Agreement, to be dated the date of delivery thereof (the "Agency Agreement"), all by and between the City and the Lessor, and attached hereto as **EXHIBITS B, C AND D**, respectively, are hereby approved and/or ratified. The Mayor of the Governing Body and the City Clerk of the City are, and each of them acting alone is, hereby authorized and directed, for and in the name of and on behalf of the City, to execute by manual or facsimile signature and deliver the Agency Agreement, the Ground Lease and the Lease in substantially the forms attached hereto and presented to and considered at this meeting, with such changes therein as the officer executing the same on behalf of the City may approve, in his discretion, as being in the best interests of the City, such approval to be conclusively evidenced by the execution and delivery thereof.

**SECTION 6.** The form of Loan Agreement (the "Loan Agreement"), to be dated the date of delivery thereof, by and between the Lessor and the Lender, attached hereto as **EXHIBIT E**, is hereby approved. The Mayor of the Governing Body and the City Clerk of the City are, and each of them acting alone is, hereby authorized and directed, for and in the name of and on behalf of the City, to execute by manual or facsimile signature and deliver the Loan Agreement in substantially the form attached hereto with such changes therein as the officer executing the same on behalf of the City may approve, in his discretion, as being in the best interests of the City, such approval to be conclusively evidenced by the execution and delivery thereof.

**SECTION 7.** The City hereby consents to the assignment by the Lessor pursuant to the Assignment Agreement, to be dated the date of delivery thereof, by and between the Lender and the Lessor ("Assignment Agreement"), the form of which is attached hereto as **EXHIBIT F**, of certain of the Lessor's rights under the Ground Lease and the Lease, including the right to receive payments of Base Rental under the Lease, to the Lender as the holder of the Note.

**SECTION 8.** The Governing Body of the City hereby designates the Note as "qualified tax-exempt obligations" as defined in and for the purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

**SECTION 9.** All actions heretofore taken by any officer or officers of the City, as may be authorized by the City, with respect to the sale of the Lease or in connection with or related to any of the agreements referenced herein or the financing of the Project, are hereby approved, confirmed and ratified.

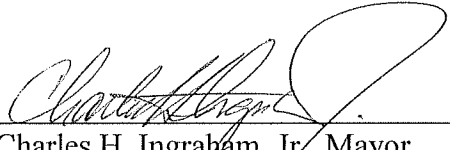
**SECTION 11.** The Mayor and City Clerk of the City are, and each of them acting alone is, hereby authorized and directed to take such actions and to execute such documents as may be necessary to effectuate the purposes of this resolution.

**SECTION 12.** All other ordinances, resolutions and orders of the City in conflict with this resolution shall be and the same are hereby replaced, rescinded and set aside, but only to the extent of such conflict. For cause, it is hereby found, determined and adjudicated that this resolution shall become effective immediately upon its adoption by the City.

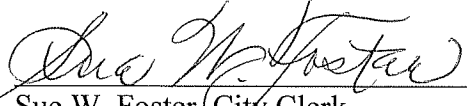
Following the reading of the foregoing resolution, Council Member Reck seconded the motion to adopt the foregoing resolution, and the question being put to a roll call vote, the result was as follows:

	Aye	Nay	Absent
Councilmember Dianne Ackerman	<u>✓</u>	<u>      </u>	<u>✓</u>
Councilmember Hank Holcomb	<u>✓</u>	<u>      </u>	<u>      </u>
Councilmember Ernie Knobloch	<u>✓</u>	<u>      </u>	<u>      </u>
Councilmember Ron Rech	<u>✓</u>	<u>      </u>	<u>      </u>
Councilmember Dalton Roberson	<u>✓</u>	<u>      </u>	<u>      </u>
Mayor Charles H. Ingraham, Jr.	<u>✓</u>	<u>      </u>	<u>      </u>

The motion having received the affirmative vote of four of the six members of the Mayor and Council, the Mayor declared the motion carried and the resolution adopted this the 15th day of April, 2013.

  
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 Charles H. Ingraham, Jr., Mayor

ATTEST:

  
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 Sue W. Foster, City Clerk

