

The City Council (the "Governing Body") of the City of Diamondhead, Mississippi (the "City") took up for consideration the matter of lease purchasing equipment for the City. After a discussion of the subject, Council Member Rebergon offered and moved the adoption of the following resolution:

RESOLUTION DECLARING THE INTENTION OF THE CITY COUNCIL (THE "GOVERNING BODY") OF THE CITY OF DIAMONDHEAD, MISSISSIPPI (THE "CITY") TO RECEIVE SUITABLE PROPOSALS FOR THE LEASING OF EQUIPMENT FOR THE CITY IN THE MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED THREE HUNDRED THOUSAND DOLLARS (\$300,000); AND OTHER RELATED MATTERS.

WHEREAS, the Governing Body of the City hereby finds, determines, adjudicates and declares as follows:

1. The City is authorized by Sections 21-17-1, 31-7-13 and 31-8-11 of the Mississippi Code of 1972, as amended from time to time (the "Act"), to lease purchase equipment for the City.
2. It is necessary and in the public interest to publish notice of the lease purchasing of equipment pursuant to the Act, with the total of the lease-purchases not to exceed Three Hundred Thousand Dollars (\$300,000).
3. The Governing Body reasonably expects that it will incur expenditures prior to the issuance of the Lease Purchase, which it intends to reimburse with the proceeds of the Lease Purchase upon the issuance thereof. This declaration of official intent to reimburse expenditures made prior to the issuance of the Lease Purchase in anticipation of the issuance of the Lease Purchase is made pursuant to Department of Treasury Regulations Section 1.150-2. The Project for which such expenditures are made is the same as described hereinabove. The maximum principal amount of debt expected to be issued for the Project is the amount hereinabove set forth.

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 receive suitable proposals for the leasing of equipment for the City in the maximum principal amount not to exceed Three Hundred Thousand Dollars (\$300,000).

SECTION 2. The Mayor and the City Clerk are hereby authorized to solicit such lease purchase of the equipment pursuant to the Act.

SECTION 3. There shall be appropriated out of any available funds of the City, a sufficient sum to make ample provision for the payment of said principal and interest according to the terms of said lease purchasing agreement(s) (the "Lease Purchase").

SECTION 4. The City hereby covenants that it will not make any use of the proceeds of the Lease Purchase or do or suffer any other action that would cause: (i) the Lease Purchase to be “arbitrage bonds” as such term is defined in Section 148(a) of the Internal Revenue Code of 1986, as amended (“Code”), and the Regulations promulgated thereunder; (ii) the interest on the Lease Purchase to be included in the gross income of the Registered Owners thereof for federal income taxation purposes; or (iii) the interest on the Lease Purchase to be treated as an item of tax preference under Section 57(a)(5) of the Code.

SECTION 5. The City represents as follows:

(a) The City shall timely file with the Ogden, Utah Service Center of the Internal Revenue Service, such information report or reports as may be required by Section 148(f) and 149(e) of the Code;

(b) The City shall take no action that would cause the Lease Purchase to be “federally guaranteed” within the meaning of Section 149(b) of the Code;

(c) The City shall take all necessary action to have the Lease Purchase registered within the meaning of Section 149(a) of the Code; and

(d) The City will not employ any device or abusive transaction with respect to the investment of the proceeds of the Lease Purchase.

SECTION 6. In accordance with Section 148(f)(4)(D) (the “Smaller Issuer Exception” requirements) of the Code, the City represents that: (i) it is a governmental unit of the State of Mississippi and is empowered to exercise general taxing powers; (ii) the Lease Purchase is not “private activity bonds” as defined in Section 141 of the Code; (iii) ninety-five percent (95%) or more of the net proceeds of the Lease Purchase are to be used for local governmental activities of the City; and (iv) the aggregate face amount of the tax-exempt obligations (other than private activity bonds as defined in Section 141 of the Code and certain current refunding bonds described in Section 148(f)(4)(D) of the Code) issued by the City during calendar year 2012 is not expected to exceed \$5,000,000.

SECTION 7. In the event that the aggregate principal amount of the tax-exempt obligations (other than private activity bonds as defined in Section 141 of the Code and certain current refunding bonds described in Section 148(f)(4)(D) of the Code) issued by the City, or on behalf of the City, during calendar year 2012 exceeds \$5,000,000, or if the City otherwise fails to meet the Small Issuer Exception, the City hereby covenants that it shall make, or cause to be made, the rebate payments required by Section 148(f) of the Code in the manner described in Regulation of §§1.148-1 through 1.148-11, as such regulations and statutory provisions may be modified insofar as they apply to the Lease Purchase.

SECTION 8. The City hereby designates the Lease Purchase as “qualified tax-exempt obligations” as defined in and for the purposes of Section 265(b)(3) of the Code. For purposes of this designation, the City hereby represents that:

(a) the City reasonably anticipates that the amount of tax-exempt obligations to be issued by it during the period from January 1, 2012 to December 31, 2012, and the amount of

obligations designated as “qualified tax-exempt obligations” by it, will not exceed \$10,000,000 when added to the aggregate principal amount of the Lease Purchase; and

(b) for purposes of this Section 13, the following obligations are not taken into account in determining the aggregate principal amount of tax-exempt obligations issued by the City: (i) a private activity bond as defined in Section 141 of the Code (other than a qualified 501(c)(3) bond, as defined in Section 145 of the Code); and (ii) any obligation issued to refund any other tax-exempt obligation (other than to advance refund within the meaning of Section 149(d)(5) of the Code) as provided in Section 265(b)(3)(c) of the Code.

SECTION 9. The interest on the Lease Purchase is exempt from Federal income taxes under existing laws, regulations, rulings and judicial decisions with such exceptions as shall be required by the Internal Revenue Code of 1986. Under existing law, interest on the Lease Purchase is exempt from present taxes imposed by the State of Mississippi and any county, municipality or other political subdivision of the State of Mississippi, except for inheritance, estate and transfer taxes.

SECTION 10. The principal amount of the Lease Purchase is less than \$1,000,000 and said Note shall be sold to the Purchaser without a view for distributing said Note. Based on the foregoing, the Lease Purchase will be exempt from the continuing disclosure requirements of Rule 15c2-12.

SECTION 11. The City reasonably expects that it will incur expenditures prior to the issuance of the Lease Purchase, which it intends to reimburse with the proceeds of the Lease Purchase upon the issuance thereof. This declaration of official intent to reimburse expenditures made prior to the issuance of the Lease Purchase in anticipation of the issuance of the Lease Purchase is made pursuant to Department of Treasury Regulations Section 1.150-2 (the reimbursement regulations). The Project for which such expenditures are made is the same as described hereinabove. The maximum principal amount of debt expected to be issued for the Project is the amount hereinabove set forth.

SECTION 12. The Mayor, City Clerk and the other officers 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 13. 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.

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

Council Member Dianne Ackerman	voted: <u>Aye</u>
Council Member Hank Holcomb	voted: <u>absent</u>
Council Member Ernie Knobloch	voted: <u>Aye</u>
Council Member Ron Rech	voted: <u>Aye</u>
Council Member Dalton Roberson	voted: <u>Aye</u>

The motion having received the affirmative vote of a majority of the members present, the Mayor declared the motion carried and the resolution adopted this the 18th day of June, 2012.

Charles H. Hays
Mayor

ATTEST:
Sue W. Foster
CITY CLERK

SEAL

THIS IS TO CERTIFY THAT THE FOREGOING RESOLUTION WAS ADOPTED BY THE CITY OF DIAMONDHEAD, MISSISSIPPI, ON THE 18th DAY OF June, 2012.

Sue W. Foster
CITY CLERK