

**RESOLUTION OF THE CITY OF DIAMONDHEAD
MAKING CERTAIN FINDINGS OF FACT AND AUTHORIZING THE CITY MANAGER
TO ACCEPT THE BID OF TYLER TECHNOLOGIES FOR ITS
INCODE SOFTWARE AND RELATED MATTERS**

Whereas, the City of Diamondhead is a newly incorporated municipality as of January 30, 2012; and,

Whereas, the Interim City Manager, Mr. Lloyd Ramirez, determined that it is in the best interest of the City of Diamondhead that computer software be purchased to aid in the efficient and orderly function of the City and the conduct of city business; and,

Whereas, to that end, the City Council directed the Interim City Manager to study the City's software needs to determine what software was available and what software other cities in south Mississippi use; and,

Whereas, the Interim City Manager, Mr. Lloyd Ramirez, Mr. Richard Rose, then a consultant with the city, and Jim Simmons, the City Computer Consultant, conducted a software study; and,

Whereas, after the study was conducted, the new City Manager, Mr. Richard Rose, recommended that the City purchase Tyler Technologies' Incode software; and,

Whereas, initially it was mistakenly understood by the City Manager that the City could purchase software as a sole source item and not have to put the software out for competitive bid; and,

Whereas, the city was required instead to seek and advertise for competitive bids for the purchase of computer software by the terms and provisions of § 31-7-13 of the Mississippi Code of 1972, as amended, which requirement was confirmed by three separate informal opinions from the Mississippi State Auditor's office, which opinions have been spread upon the minutes of the Council; and,

Whereas, the City Manager, Mr. Richard Rose, caused an advertisement to be placed in The Sea Coast Echo, a newspaper of general circulation in Hancock County, Mississippi, for bids for software for the city. The proof of publication is spread upon the minutes of the Council; and,

Whereas, three vendors, IBTS, CSI and Tyler Technologies obtained copies of the bid specification; and,

Whereas, the bid opening was conducted at a public meeting. One bid was received, from Tyler Technologies. A copy of that bid is spread upon the minutes of the Recessed Council Meeting on July 30, 2012. The amount of the bid is as stated in the bid package from Tyler Technologies; and,

Whereas, the Mayor and City Council have examined the bid specification for the computer software, the bid from Tyler Technologies and all related documents. The Mayor and City Council have compared the bid with the earlier sole-source quote provided by Tyler Technologies for its Incode software and find that the quote and the bid price are the same. The language in the bid specification is generic in nature and described features that are available in the Tyler Technologies Incode software, as well as features found in other software packages providing the same or similar services. The bid specification does not mention Tyler Technologies, is not written in favor of Tyler Technologies or any other person, firm or corporation. The bid specification is proper in all respects; and,

Whereas, Mr. Peter A. Kolf published a letter to the editor in the July 25, 2012, edition of The Sea Coast Echo, wherein alleged that the bid was rigged and that there is a difference between the sole source quote (\$210,000.00) and the bid price (\$254,000.00) of \$42,000.00. A copy of that letter to the editor is spread upon the minutes of the Recessed Council Meeting of July 30, 2012; and,

Whereas, Mr. Peter A. Kolf has reported this matter to the Investigations Division of the Mississippi State Auditor's office; and,

Whereas, Mr. Peter A. Kolf attended the July 30, 2012, Recessed Meeting of the City Council and stated in the public meeting to the Mayor and Council that the software bid was rigged and the sole source and bid prices were different; and,

Whereas, the Mayor and Council understand that the Mississippi State Auditor's office has looked into Mr. Kolf's allegations, has interviewed Mr. Kolf and reviewed the bid specification for the city software, the procedure followed by the City of Diamondhead in placing this matter out for public bid, and has found nothing that would warrant a formal investigation into Mr. Kolf's allegations;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of Diamondhead, Mississippi, make the following Findings of Fact:

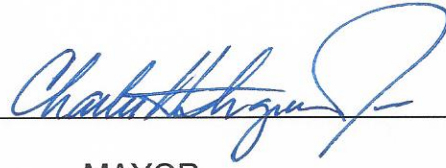
1. The allegations of Mr. Peter A. Kolf in the letter to the editor of The Sea Coast Echo that was published in The Sea Coast Echo on July 25, 2012, that the software bid was rigged and that there is a difference in the sole source quote and the bid price have no basis in fact and are false; and,
2. The allegations of bid rigging and price difference made by Mr. Peter A. Kolf at the Recessed Council Meeting on July 30, 2012, are totally false and untrue; and,

3. The bid process was not rigged; and,
4. The bid was not rigged; and,
5. The bid and sole source prices are the same; and,
6. The procedure followed by Mr. Lloyd Ramirez, Interim City Manager, and Mr. Richard Rose, City Manager, and the City of Diamondhead in obtaining bids for the purchase of software for the city is proper in all respects and in full conformity with the laws of the State of Mississippi. This finding is supported by the informal opinion of Emily McNeil, Manager of the Technical Assistant Division of the Mississippi Office of the State Auditor dated July 16, 2012, a copy of which opinion is spread upon the minutes of the Recessed Council Meeting of July 30, 2012; and,
7. The Tyler Technologies bid is reasonable and proper in all respects; and,
8. The City Manager has recommended to the Mayor and Council that the city accept the bid for software from Tyler Technologies; and,
9. The City Manager's decision to recommend to the Mayor and Council that the city purchase computer software from Tyler Technologies to assist in the efficient operation of the various aspects of City Government is reasonable and proper and fully supported by the evidence; and,
10. The Incode software offered by Tyler Technologies meets the present and future needs of the City of Diamondhead with regard to software and to assist in the orderly conduct of the business of the city; and,
11. The city should follow the City Manager's recommendation that the city accept the Tyler Technologies' bid and purchase the Incode software from Tyler Technologies.

AND, BE IT FURTHER RESOLVED by the Mayor and City Council of the City of Diamondhead, Mississippi, that the City Manager is hereby authorized to accept the bid of Tyler Technologies for Incode software for the City of Diamondhead.

	Aye	Nay	Absent
Councilmember Ackerman	<u>✓</u>	_____	_____
Councilmember Holcomb	<u>✓</u>	_____	_____
Councilmember Knobloch	<u>✓</u>	_____	_____
Councilmember Rech	<u>✓</u>	_____	_____
Councilmember Roberson	_____	_____	<u>✓</u>
Mayor Ingraham	<u>✓</u>	_____	_____

APPROVED



MAYOR

ATTEST:



CITY CLERK

SEAL

THIS IS TO CERTIFY THAT THE FOREGOING RESOLUTION WAS ADOPTED BY
THE CITY OF DIAMONDHEAD, MISSISSIPPI, ON THE 6th DAY
OF August, 2012.



CITY CLERK