

The Mayor and City Council (the "**Governing Body**") of the City of Pascagoula, Mississippi (the "**City**") took up for consideration the matter of borrowing funds through the Mississippi Development Bank (the "**Bank**") in order to provide financing for certain capital improvements for the City. After a discussion of the subject, Council member _____ offered and moved the adoption of the following resolution:

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF PASCAGOULA, MISSISSIPPI (THE "CITY") AUTHORIZING THE EXECUTION AND DELIVERY OF A PROMISSORY NOTE (PASCAGOULA, MISSISSIPPI CAPITAL IMPROVEMENTS PROJECT) IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED TWELVE MILLION DOLLARS (\$12,000,000) (THE "NOTE") TO SECURE A LOAN (THE "LOAN") FROM THE MISSISSIPPI DEVELOPMENT BANK TO THE CITY FOR THE PURPOSES OF PROVIDING FUNDS FOR THE PURPOSES SET FORTH THEREIN, INCLUDING, BUT NOT LIMITED TO, (I) CONSTRUCTING, MAINTAINING, RECONSTRUCTING, IMPROVING, AND REPAIRING ROADS AND STREETS AND ACQUIRING RIGHTS-OF-WAY THEREFORE IF NECESSARY; (II) ERECTING, REPAIRING, IMPROVING, EXTENDING OR MAINTAINING WATERWORKS OR WATER DISTRIBUTION SYSTEMS, AND REPAIRING, IMPROVING AND EXTENDING THE SAME; (III) ESTABLISHING ERECTING, REPAIRING, IMPROVING, EXTENDING OR MAINTAINING SANITARY, STORM, DRAINAGE OR SEWERAGE SYSTEMS; (IV) CONSTRUCTING, MAINTAINING, RECONSTRUCTING, IMPROVING, AND REPAIRING BRIDGES AND CULVERTS; AND (V) FOR OTHER AUTHORIZED PURPOSES UNDER THE ACT, INCLUDING FUNDING CAPITALIZED INTEREST, IF APPLICABLE AND PAYING THE COSTS OF BORROWING; APPROVING THE FORM OF AN INDENTURE OF TRUST AND THE FORMS OF AND THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT, A TAX INTERCEPT AGREEMENT AND A PLACEMENT AGREEMENT IN CONNECTION WITH THE ISSUANCE OF THE NOTE AND THE ISSUANCE BY THE MISSISSIPPI DEVELOPMENT BANK OF ITS NOT TO EXCEED \$12,000,000 SPECIAL OBLIGATION BONDS, SERIES 2022 (PASCAGOULA, MISSISSIPPI CAPITAL IMPROVEMENTS PROJECT) FOR THE PURPOSE OF FUNDING THE LOAN TO THE CITY; (III) AUTHORIZING THE SALE OF SAID MISSISSIPPI DEVELOPMENT SERIES 2022 BONDS ; (IV) AND FOR RELATED PURPOSES.

WHEREAS, the Governing Body, acting for and on behalf of the City, is authorized by the Sections 31-25-1 et seq., Mississippi Code of 1972, as amended (the "**Bank Act**") and Sections 21-33-301 et seq., Mississippi Code of 1972, as amended and/or supplemented from time to time (the "**City Bond Act**") and together with the Bank Act, the "**Act**"), and other applicable laws of the State of Mississippi (the "**State**"), to enter into a loan with the Issuer for the purposes set forth in the Act, including, but not limited to (i) constructing, maintaining, reconstructing, improving, and repairing roads and streets and acquiring rights-of-way therefore if necessary; (ii) erecting, repairing, improving, extending or maintaining waterworks or water distribution systems, and repairing, improving and extending the same; (iii) establishing erecting, repairing, improving, extending or maintaining sanitary, storm, drainage or sewerage systems; (iv) constructing, maintaining, reconstructing, improving, and repairing bridges and culverts; and (v) for other authorized purposes under the Act, including funding capitalized interest, if applicable and paying the costs of borrowing (collectively, the "**City Project**"); and

WHEREAS, the City is a political subdivision duly created and validly existing pursuant to the Constitution and laws of the State and constitutes a "local governmental unit" under the Bank Act; and

WHEREAS, on April 5, 2022, the Governing Body of the City adopted a resolution (the "**Intent Resolution**") declaring its intention to issue either (a) general obligation bonds of the City in the principal amount of not to exceed \$12,000,000 to provide funds for the City Project, (b) general obligation bonds of the City in the principal amount of not to exceed \$12,000,000 to provide funds for the City Project for sale to the Issuer and/or (c) enter into a loan (the "**Loan**") with the Issuer secured by a promissory note to borrow money to finance the costs of the Project; and

WHEREAS, pursuant to applicable law and as directed by the Intent Resolution, the Intent Resolution was published once a week for at least three (3) consecutive weeks in The Sun Herald, a newspaper published in the City, and having a general circulation in the City and qualified under the provisions of Section 13-3-31, Mississippi Code of 1972, as amended, the first publication having been made not less than twenty-one (21) days prior to May 3, 2022, and the last publication having been made not more than seven (7) days prior to such date, said notice having been published in said newspaper on April 8, 15, 22 and 29, 2022; and

WHEREAS, on or prior to the hour of 4:00 o'clock p.m. on May 3, 2022, no written protest against the issuance of the bonds or note, nor any other objection of any kind or character against the loan and the note described in the Intent Resolution had been filed with the City Clerk of the City (the "**City Clerk**") or presented by the qualified electors of the City; and

WHEREAS, on May 3, 2022, at the usual meeting place of the Governing Body, the Governing Body convened and adopted a resolution (the "**No Protest Resolution**") finding and determining that the Intent Resolution was duly published as required by law and that no written protest or other objection of any kind or character against the issuance of the loan, the note and the bonds as described in the Intent Resolution was filed by qualified electors of the City and the Governing Body did authorize and approve the issuance of such Loan to raise money for the Project, all in accordance with the Act; and

WHEREAS, the City is authorized under the provisions of the Act to borrow from the Bank in such amounts as it may find necessary and proper in order to provide financing for the City Project; and

WHEREAS, it would be in the best interest of the City for the Governing Body to provide funding for the costs of the City Project by entering into the Loan with the Bank in accordance with the Act; and

WHEREAS, the Loan will be secured by the City's Promissory Note (Pascagoula, Mississippi Capital Improvements Project) (the "**Note**") in an aggregate principal amount of not to exceed \$12,000,000, payable by the City to the Bank; and

WHEREAS, the Loan and Note shall not constitute an indebtedness of the City within the meaning of any statutory or charter restriction, limitation, or provision, and the taxing power of the City will not be pledged to the payment of said Loan and Note, but the same, together with the interest thereon, shall be payable solely from legally available revenues of the City, including, without limitation, available amounts of the City's General Fund; and

WHEREAS, pursuant to an Indenture of Trust, dated as of the date of delivery (the "**Indenture**"), between the Bank and a to be determined trustee (the "**Trustee**"), the Bank will issue its Special Obligation Bonds, Series 2022 (Pascagoula, Mississippi Capital Improvements Project) in an aggregate principal amount of not to exceed \$12,000,000 (the "**Series 2022 Bonds**") to fund the Loan and the City Project and will assign the Note to the Trustee as security for the Series 2022 Bonds; and

WHEREAS, the City will enter into a Loan Agreement, dated as of the date of delivery, with the Bank (the "**Loan Agreement**") pursuant to which the Bank will loan the proceeds of the Series 2022 Bonds to the City to pay the costs of the City Project and the costs incurred by the City and the Bank in connection with the Loan and the Series 2022 Bonds; and

WHEREAS, under the Loan Agreement and the Note, the City will agree to make payments on the Note in amounts sufficient to pay the principal of, premium, if any, and interest on the Series 2022 Bonds, as and when the same shall become due and payable; and

WHEREAS, the City and the Bank will, under the Bank Act, enter into a Tax Intercept Agreement, dated as of the date of delivery (the "**Tax Intercept Agreement**"), securing payment of the Note and the Series 2022 Bonds, pursuant to which the City will agree to the withholding of certain monies to which it may be entitled from the State in order to satisfy any delinquent payments on the Note; and

WHEREAS, the Series 2022 Bonds will be sold to one or more designated purchasers (collectively, the "**Purchaser/Lender**") at a private negotiated sale (the "**Private Placement Transaction**"), pursuant to the terms and provisions of a Placement Agreement, to be dated as of the date of the sale of the Series 2022 Bonds (the "**Placement Agreement**"), by and among the Bank, Raymond James & Associates, Inc., as placement agent (the "**Placement Agent**") and the City; and

WHEREAS, there have been submitted to this meeting forms of:

- (a) the Indenture under which the Series 2022 Bonds will be issued and by which they will be secured,
- (b) the Loan Agreement between the City and the Bank providing for the Loan,
- (c) the Note from the City to the Bank, securing payment of the Loan,
- (d) the Tax Intercept Agreement providing security for the Note and the Series 2022 Bonds, and
- (e) the Placement Agreement providing for the terms and conditions of the sale of the Series 2022 Bonds to the Purchaser/Lender; and

WHEREAS, it appears that each of the documents above referred to, which documents are now before the Governing Body, is in appropriate form and is an appropriate document for the purposes identified; and

WHEREAS, it would be in the best interest of the City for the Bank to proceed with the sale and issuance of the Series 2022 Bonds because the interest payable on the Note will be the same as the interest payable on the Series 2022 Bonds as set forth in detail in the Placement Agreement and/or any term sheet provided by the Purchaser/Lender; and

WHEREAS, the Loan and the Series 2022 Bonds shall be conditioned upon the approval by the Board of Directors of the Bank; and

WHEREAS, all other conditions, acts and things required by the Act and the Constitution and laws of the State to have existed, to have happened and to have been performed precedent to and in connection with the adoption of this resolution, the issuance of the Note, the execution of the Loan Agreement, the Tax Intercept Agreement and the Placement Agreement have happened and have been performed in regular and due time, form and manner as required by law; and

WHEREAS, it is proposed that the City should take all such additional actions, authorize the preparation and distribution of such documents and authorize such other actions and proceedings as shall be necessary in connection with the issuance of the Note, the sale and issuance of the Series 2022 Bonds and the financing of the City Project and the costs incurred by the City and the Bank in connection with the Loan and the Series 2022 Bonds; and

WHEREAS, the issuance of the Note will not exceed any limitation upon indebtedness which may be incurred by the City; and

WHEREAS, it has now become necessary that the Governing Body proceed to make provision for the execution, issuance and delivery of the Note and the Series 2022 Bonds.

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

SECTION 1. This resolution is adopted pursuant to the provisions of the Act and the Constitution and laws of the State.

SECTION 2. The Governing Body hereby authorizes the execution and delivery of the Note in the principal amount of not to exceed \$12,000,000 in accordance with the Act and subject to the provisions of this resolution and the Loan Agreement. All terms and provisions of the Note, including the repayment thereof, shall be as set forth in the Loan Agreement and the Note.

SECTION 3. The principal of and interest on the Note shall be payable over a period of not to exceed thirty (30) years solely from legally available revenues of the City, including, without limitation, available amounts of the City's General Fund, and shall be subject to prepayment as set forth in the Loan Agreement. The Note shall not constitute a general obligation of the City within the meaning of any constitutional or statutory restrictions, limitations, or provisions, and the taxing power of the City will not be pledged to the payment of the Note, but the same, together with the interest thereon, shall be payable solely from legally available revenues of the City, including, without limitation, available amounts of the City's General Fund, and the terms and provisions of the Tax Intercept Agreement.

SECTION 4. The Governing Body does hereby find and determine that the Series 2022 Bonds are being issued to fund the Loan, the proceeds of which will be used to finance the City Project.

SECTION 5. The Indenture by and between the Bank and the Trustee in the form submitted to this meeting and attached hereto as **EXHIBIT A**, is hereby made a part of this resolution as though set forth in full herein and shall be, and the same hereby is, approved in substantially said form. The Mayor of the City (the "**Mayor**"), the City Clerk and the President of the Governing Body (together, the "**Authorized Officers**") are authorized to approve such additional changes thereto as may be requested by the Bank. The City hereby approves and acknowledges the Indenture and the terms and provisions thereof and recognizes that many items governing the terms and conditions of the Note are based upon terms, limitations and conditions provided in the Indenture.

SECTION 6. The form of the Loan Agreement by and between the City and the Bank in the form submitted to this meeting and attached hereto as **EXHIBIT B**, is hereby made a part of this resolution as though set forth in full herein and shall be, and the same hereby is, approved in substantially said form. The Authorized Officers are hereby authorized and directed to execute and deliver the Loan Agreement with such changes, insertions and omissions as may be approved by such officers, said execution being conclusive evidence of such approval.

SECTION 7. The form of the Note from the City to the Bank in the form attached to the Loan Agreement, shall be, and the same hereby is, approved in substantially said form. The Authorized Officers are hereby authorized and directed to execute and deliver the Note to the Bank with such changes, insertions and omissions as may be approved by such officers, said execution being conclusive evidence of such approval.

SECTION 8. The form of the Tax Intercept Agreement by and between the Bank and the City in the form submitted to this meeting and attached hereto as **EXHIBIT C**, is hereby made a part of this resolution as though set forth in full herein and shall be, and the same hereby is, approved in substantially said form. The Authorized Officers are hereby authorized and directed to execute and deliver the Tax Intercept Agreement with such changes, insertions and omissions as may be approved by such officers, said execution being conclusive evidence of such approval.

SECTION 9. The Placement Agreement, in the form submitted to this meeting is and attached hereto as **EXHIBIT D** is hereby made a part of this resolution as though set forth in full herein and, shall be, and the same hereby is, approved in substantially said form. The Authorized Officers are hereby authorized and directed to execute the Placement Agreement for and on behalf of the City, subject to the following conditions: (a) compliance by the City with the provisions of the Bank Act regarding the issuance of the Note; (b) the aggregate principal amount of the Note and the Series 2022 Bonds shall not exceed \$12,000,000; (c) the Series 2022 Bonds will bear interest at the rates to be provided in the Placement Agreement and the Series 2022 Bonds shall not bear a greater overall maximum interest rate to maturity than that allowed in Section 75-17-101, Mississippi Code of 1972, as amended and supplemented from

time to time; (d) the term of Series 2022 Bonds does not exceed thirty (30) years; and (e) the terms and provisions of the Series 2022 Bonds are in compliance with the Bank Act.

SECTION 10. Copies of the documents provided for in Sections 5 through 9 of this resolution in the forms submitted to this meeting and approved in substantially said forms by this resolution are on file in the office of the City Clerk.

SECTION 11. The Authorized Officers are hereby authorized to execute a term sheet of the Purchaser/Lender (the "**Term Sheet**"), if applicable, and to approve any changes, insertions and omissions as may be required by the Term Sheet or the Purchaser/Lender to the Indenture, the Loan Agreement, the Note, the Placement Agreement, the Tax Intercept Agreement (collectively, the "**Bond Documents**"), if required by the Purchaser or the Term Sheet and are hereby authorized to executed any additional documents and certificates as required. The Governing Body hereby authorizes and approves the execution of said Term Sheet by an Authorized Officer of the City.

SECTION 12. Except as otherwise expressly provided herein, nothing in this resolution or the Indenture, express or implied, is intended or shall be construed to confer upon any person or firm or corporation other than the Bank, the holders of the Series 2022 Bonds issued under the Indenture, the City and the Trustee, any right, remedy or claim, legal or equitable, under and by reason of this resolution or any of the provisions hereof or the Indenture or any provision thereof. This resolution, the Indenture and all of their provisions are intended to be and shall be for the sole and exclusive benefit of the Bank, the City, the Trustee and the holders from time to time of the Series 2022 Bonds.

SECTION 13. In case any one or more of the provisions of this resolution, the Bond Documents or the Series 2022 Bonds issued hereby 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, Bond Documents or the Series 2022 Bonds; but this resolution, Bond Documents or the Series 2022 Bonds shall be construed and enforced as if such illegal or invalid provision or provisions had not been contained therein. The terms and conditions set forth in the Indenture, the pledge of the moneys and property under the Indenture, the creation of the funds provided for in the Indenture and the Loan Agreement, the receipt of payments made on the Note, the provisions relating to the proceeds derived from the sale of the Series 2022 Bonds pursuant to and under the Indenture and the handling of said moneys and property and receipts are all commitments and agreements on the part of the Bank and the validity or the invalidity of the Indenture shall not affect the commitments on the part of the Bank or the City to create such funds and to handle such proceeds and such moneys and property and receipts for the purposes, in the manner and according to the terms and conditions fixed in the Indenture or the Loan Agreement, it being the intention hereof that such commitments on the part of the Bank and the City are binding as if contained in this resolution separate and apart from the Indenture and the Loan Agreement.

SECTION 14. The City hereby authorizes the Bank to cause to be paid out of the proceeds of the sale of the Series 2022 Bonds such legal, accounting, municipal advisory, rating, Trustee and printing expenses, and all such other expenses, incurred by or on behalf of the Bank, the City and the Trustee in connection with the sale and issuance of the Series 2022 Bonds and the Loan as may be permitted to be paid therefrom pursuant to the terms of the Indenture, the Loan Agreement and applicable law. The Authorized Officers of the City are hereby authorized and directed to sign requisitions and perform such other acts as may be necessary to authorize the Bank and the Trustee to pay from the proceeds of the Series 2022 Bonds the costs of issuance of the Series 2022 Bonds; provided, however, that such costs of issuance shall not exceed five percent (5%) of the par amount of the Bonds (excluding the Placement Agent's fee, and, if applicable, any premiums for municipal bond insurance) and shall be approved by the Executive Director or the President of the Bank and an Authorized Officer of the City as provided in the Bank resolution.

SECTION 15. The Authorized Officers and any other officer of the City or member of the Governing Body be, and each of them is hereby, authorized and directed to do all acts and things required of them by this resolution and the Bond Documents for the full and complete performance of all the terms, covenants and agreements contained in this resolution, the Series 2022 Bonds and the Bond Documents and all of the documents necessary to conclude the sale and issuance of the Series 2022 Bonds and the loan.

SECTION 16. No stipulation, obligation or agreement herein contained or contained in the Bond Documents or other documents necessary to conclude the sale and issuance of the Series 2022 Bonds shall be deemed to be a stipulation, obligation or agreement of any officer, director, agent or employee of the Bank in his or her individual capacity, and no such officer, director, agent or employee shall be personally liable on the Series 2022 Bonds or be subject to personal liability or accountability by reason of the sale and issuance thereof.

SECTION 17. When the Series 2022 Bonds are issued, the City Clerk is hereby authorized and directed to prepare and furnish to the Placement Agent, the Bank and the Trustee certified copies of all the proceedings and records of the City relating to the Series 2022 Bonds, and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the Series 2022 Bonds as such facts appear from the books and records in the City Clerk's custody and control or as otherwise known to him; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

SECTION 18. From and after the execution and delivery of the documents hereinabove authorized, the proper officers, directors, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of said documents as executed and are further authorized to take any and all further actions and execute and deliver any and all other documents and certificates as may be necessary or desirable in connection with the issuance of the Series 2022 Bonds and the loan, the use of the proceeds of the loan to finance the City Project and the execution and delivery of the Bond Documents or other documents necessary to conclude the sale and issuance of the Series 2022 Bonds and the loan and to document the City's compliance with the Act.

SECTION 19. The Mayor and/or the City Clerk are hereby authorized to execute a non-arbitrage certification in order to comply with Section 148 of the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

SECTION 20. All acts and doings of the officers of the City which are in conformity with the purposes and intents of this resolution and in furtherance of the sale and issuance of the Series 2022 Bonds, from time to time, and the execution, delivery and performance of the Bond Documents shall be, and the same hereby are, in all respects approved and confirmed.

SECTION 21. Upon the recommendation of Government Consultants, Inc., Madison, Mississippi, as independent registered municipal advisor (the "**Municipal Advisor**"), the Executive Director or an Authorized Officer are hereby authorized to apply for, execute and deliver, a commitment for the provision of municipal bond insurance and any additional documents and certificates which are required by any provider of such municipal bond insurance selected to provide credit enhancement in connection with the issuance of the Series 2022 Bonds. Such insurer shall be selected by the Executive Director and/or an Authorized Officer following negotiations with perspective insurers by the Municipal Advisor. Any changes, insertions and omissions as may be required by the provider of the municipal bond insurance to the Bond Documents are to be approved by the Executive Director and/or Authorized Officer, and the execution of the commitment for said municipal bond insurance being conclusive evidence of such approval. Payment of the premiums, if applicable, for such municipal bond insurance out of the proceeds of the Series 2022 Bonds is hereby approved. Each Authorized Officer are hereby authorized to execute, if applicable, the commitment for municipal bond insurance on behalf of the City.

SECTION 22. Upon receiving the recommendation of the Municipal Advisor, the Authorized Officers are hereby authorized and directed to make all final determinations necessary to prepare the Bond Documents for the sale of the Series 2022 Bonds, including the date of sale, the dated date of the Series 2022 Bonds, the final principal amount of the Series 2022 Bonds, the maturity schedule relating to the Series 2022 Bonds, the redemption terms of the Series 2022 Bonds and any other terms thereof; provided, however, that all such determinations shall be made subject to approval by the Bank, to be evidenced by the execution of the Placement Agreement for the sale of the Series 2022 Bonds, pursuant to authority granted by the Bank's resolution, and pursuant to this resolution.

SECTION 23. Prior to their delivery, the Series 2022 Bonds shall be validated pursuant to Sections 31-13-1 et seq., Mississippi Code of 1972, as amended, by the Chancery Court of the First Judicial District of Hinds County, Mississippi.

SECTION 24. No stipulation, obligation or agreement herein contained or contained in the Bond Documents or other documents necessary to conclude the sale and issuance of the Series 2022 Bonds shall be deemed to be a stipulation, obligation or agreement of any officer, director, agent or employee of the City in their individual capacity, and no such officer, director, agent or employee shall be personally liable on the Series 2022 Bonds or be subject to personal liability or accountability by reason of the sale and issuance thereof.

SECTION 25. The Authorized Officers are hereby authorized and directed to execute and deliver additional documents and certificates which are required in connection with the issuance of the Series 2022 Bonds. If the date of the issuance and delivery of the Series 2022 Bonds, or the execution and delivery of any of the documents adopted hereby occurs after May 2022, then the Authorized Officers are hereby fully authorized to approve all applicable and necessary changes to the documents approved hereby or otherwise and related to such change to provide for the dating of documents for the appropriate month (including the Series 2022 Bonds), the execution of said documents being conclusive evidence of such approval, and no further action shall be required of the Governing Body to approve such date changes. Notwithstanding any other provision herein or in any attachments hereto, the Governing Body further authorizes any necessary changes to the federal tax terms of the documents approved hereby and to the name or title or series designation of the Series 2022 Bonds and corresponding changes to any of the related documents approved hereby if it is determined, after consultation with the Municipal Advisor, that it is in the best interest of the City for the Series 2022 Bonds to be issued at a later date or in one or more taxable or tax-exempt series, as municipal bond market conditions may dictate, in order to conform to such determination.

SECTION 26. This resolution shall become effective immediately and all resolutions and orders, or parts thereof, in conflict herewith are, to the extent of such conflict, repealed.

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

Mayor Willis	voted: ___
Councilman Hyde	voted: ___
Councilman Fornett	voted: ___
Councilman Walker	voted: ___
Councilman Parker	voted: ___
Councilman Blythe	voted: ___
Councilman Gatchell	voted: ___

The Mayor declared the motion carried and the resolution be adopted this the 3rd day of May, 2022.

Mayor

ATTEST:

City Clerk

EXHIBIT A
FORM OF INDENTURE

EXHIBIT B
FORM OF LOAN AGREEMENT

EXHIBIT C

FORM OF TAX INTERCEPT AGREEMENT

EXHIBIT D

FORM OF PLACEMENT AGREEMENT