

2007-0179

**INTRODUCED BY: ALBERT D. LAQUE, PARISH PRESIDENT
(BOND COUNSEL)**

ORDINANCE NO. 07-6-4

An ordinance authorizing the issuance of not exceeding \$2,750,000 of Parish of St. Charles, State of Louisiana Revenue Bonds (Ram Tool Project), Series 2007; approving the form and authorizing the execution and delivery of an Installment Sale Agreement and a Trust Indenture to secure the Bonds; approving the form and authorizing the publication of a Notice of Intention to Sell Bonds and a Notice of Public Hearing; awarding the Bonds to Compass Bank; authorizing the appropriate officers of said Parish to execute the aforementioned instruments and all other documents and certificates deemed necessary in connection therewith; and providing for other matters with respect to the foregoing.

WHEREAS, the Parish of St. Charles, State of Louisiana (the "Issuer" or the "Parish"), is authorized and empowered by law, including particularly the provisions of Sections 991 to 1001, inclusive, of Title 39 of the Louisiana Revised Statutes of 1950, as amended (the "Act"), to issue its revenue bonds for the purpose of using the funds derived from the sale thereof to acquire, purchase, construct or improve and sell, lease or otherwise dispose of industrial plant sites and industrial plant buildings, and necessary property and appurtenances thereto; and

WHEREAS, pursuant to and in accordance with the provisions of the Act and an Installment Sale Agreement for each series of Bonds (hereinafter described) (the "Sale Agreement"), by and between the Issuer and MHH Properties LLC, an Alabama limited liability company (the "Company"), the Issuer shall acquire from the Company and reconvey to the Company a warehouse and distribution facility and related facilities constituting nonresidential real property (including fixed improvements associated with such property) to be located in the geographical limits of the Parish in the Gulf Opportunity Zone as provided in the Gulf Opportunity Zone Act of 2005 (collectively, the "Project"); and

WHEREAS, the Project has created or will create additional employment opportunities for residents of the Issuer and the surrounding area; has enhanced or will enhance the tax base of the Issuer and has provided or will provide other public benefits flowing from the conducting of increased industrial operations, all of which will add to the economy, welfare and prosperity of the Issuer and its residents; and

WHEREAS, pursuant to and in accordance with the provisions of the Act and other constitutional and statutory authority, and a Trust Indenture (the "Indenture"), between the Issuer and Compass Bank (the "Trustee"), the Issuer proposes to issue its Revenue Bonds (Ram Tool Project) (the "Bonds"), in the aggregate principal amount of not exceeding \$2,750,000, for the purpose of financing a portion of the cost of the acquisition and construction of the Project and paying the cost of issuance of the Bonds; and

WHEREAS, in consideration of the sale of the Project by the Issuer pursuant to the Sale Agreement, the Company will agree to make payments in an amount sufficient to pay the principal and purchase price of, premium, if any, and interest on the Bonds pursuant to the Sale Agreement and will agree to pay all of the costs and expenses of issuance of the Bonds; and

WHEREAS, the Bonds will be paid solely from the revenues derived by the Issuer from said payments by the Company pursuant to the Sale Agreement and, if applicable, payments by the credit provider pursuant to a letter of credit, and from certain other moneys pledged under the Indenture, and the

Bonds will never constitute an indebtedness or pledge of the general credit of the Issuer within the meaning of any constitutional or statutory limitation of indebtedness or otherwise; and

WHEREAS, the provisions of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), require that an applicable elected representative of a governmental unit approve the issuance of revenue bonds after a public hearing following reasonable public notice; and

WHEREAS, the Issuer desires to give notice of intention to hold a public hearing to consider the issuance of the Bonds and to ratify the publication of such notice of public hearing; and

WHEREAS, all consents and approvals required to be given by public bodies in connection with the authorization, issuance and sale of the Bonds herein authorized as required by the Act have been or will be secured prior to the delivery of the Bonds; and

WHEREAS, it is now the desire of the Issuer to authorize the execution and delivery of the Indenture and the Sale Agreement, to fix the details necessary with respect to the issuance and sale of not exceeding \$2,750,000 aggregate principal amount of said Bonds designated "Parish of St. Charles, State of Louisiana Revenue Bonds (Ram Tool Project)" for the purpose of financing a portion of the cost of the acquisition and construction of the Project and paying the cost of issuance of the Bonds, to approve the sale of the Bonds and to provide for the execution of certain instruments, documents and certificates in connection therewith;

NOW, THEREFORE, the St. Charles Parish Council hereby ordains:

SECTION 1. That the Parish President of the Issuer (the "President") and the Secretary of the St. Charles Parish Council (the "Secretary") be and they are hereby empowered, authorized and directed to execute and deliver a Sale Agreement and Indenture relating to the Bonds for, on behalf of, in the name of and under the official seal of the Issuer, in accordance with the provisions of the Act, and other constitutional and statutory authority, substantially in the forms as submitted at this meeting and filed with the official minutes of this Parish Council, with such additions, omissions and changes as may be approved by Bond Counsel to the Issuer. The signatures of the aforesaid officers upon the Sale Agreement and Indenture as so executed shall be deemed conclusive evidence of their due exercise of the authority vested in them hereunder.

SECTION 2. That there is hereby authorized to be issued, sold and delivered not exceeding \$2,750,000 aggregate principal amount of "Parish of St. Charles, State of Louisiana Revenue Bonds (Ram Tool Project)" (the "Bonds"), pursuant to the provisions of the Act for the purpose of providing funds to pay a portion of the cost of the acquisition and construction of the Project and the cost of issuance of the Bonds. The details of the Bonds and the provisions of their issuance, security and payment shall be as set

forth in the Indenture, said Indenture to be substantially in the form submitted at this meeting and filed with the official minutes of this Parish Council, with such additions, omissions and changes as may be approved by Bond Counsel to the Issuer. The Bonds of each series shall be issued initially as variable rate bonds or fixed rate bonds, shall bear interest at a variable or fixed rate not exceeding 8% per annum, and shall mature not later than thirty (30) years from the date thereof.

SECTION 3. That the President and Secretary are hereby further authorized and directed for, on behalf of, and in the name of the Issuer to execute and deliver any and all additional instruments, documents and certificates in addition to the documents set forth above which may be required by or provided for in the Sale Agreement or the Indenture, or as may otherwise be required for or necessary, convenient or appropriate to the financing described in this ordinance. Said officers are hereby further authorized and directed to approve for and on behalf of and in the name of the Issuer any changes, additions or deletions in any of the documents, instruments or certificates referred to in this ordinance, provided that all such changes, additions or deletions, if any, shall be approved by Bond Counsel to the Issuer and consistent with and within the authority provided by the Act. The signatures of the said officers upon such documents set forth above, or as may be otherwise required for or necessary, convenient or appropriate to the financing described in this ordinance, are deemed to be conclusive evidence of their due exercise of the authority vested in them hereunder. The President and the Secretary also are authorized to execute and deliver for and on behalf of the Issuer any and all additional certificates, documents, opinions or other papers and perform all other acts (including, without limitation, the filing of any documents to create and maintain a security interest on the properties and revenues pledged under the Indenture) customary to the closing of bond issues as they may deem necessary or appropriate in order to implement and carry out the intent and purposes of this ordinance and are further 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 the Indenture and Sale Agreement as executed.

SECTION 4. That application be and the same is hereby formally made to the Secretary of Economic Development of the State of Louisiana for approval of the Sale Agreement and the Indenture and to the State Bond Commission for approval of the Sale Agreement and the Indenture and for consent and authority to issue, sell and deliver the Bonds herein authorized and that certified copies of this ordinance, and copies of said documents shall be forwarded to the Secretary of Economic Development of the State of Louisiana and to the State Bond Commission, together with a request for prompt consideration and approval of this application.

SECTION 5. That the President be and he is hereby authorized, empowered and directed to execute and publish a Notice of Intention to Sell Bonds authorized hereby, which notice shall be advertised in accordance with the Constitution and statutes of this State, including particularly the Act.

SECTION 6. That the publication of a Notice of Public Hearing is hereby ratified and such public hearing shall be held not less than fourteen days after the publication of such notice.

SECTION 7. That this Parish Council hereby awards the Bonds to Compass Bank, as purchaser (the "Purchaser"), pursuant to and upon the terms of a Bond Purchase Agreement, if required by the purchaser. The Parish President is authorized to sign any Bond Purchase Agreement required by the Purchaser, provided it is in a form approved by Bond Counsel to the Issuer. The signature of said Parish President on the Bond Purchase Agreement is deemed to be conclusive evidence of his exercise of authority vested in him hereunder. The sale of the Bonds at a price of not less than 97%, as shall be set forth in the Bond Purchase Agreement or in the Indenture, is hereby authorized and approved.

SECTION 7. That this ordinance shall be published in *St. Charles Herald-Guide*, a newspaper published in Boutte, St. Charles Parish, Louisiana, and that, as provided by the Act, for a period of thirty (30) days from the date of such publication, any person in interest may contest the legality of this ordinance and the Bonds to be issued pursuant hereto and the provisions securing the Bonds. After the said thirty days, no person may have any right of action to contest the validity of the Bonds or the provisions of this ordinance, and all of the Bonds shall be conclusively presumed to be legal, and no court shall thereafter have authority to inquire into such matters.

SECTION 8. That the Parish President and the Council Secretary shall have prepared and shall execute for and on behalf of the Issuer the Bonds (the signature of said Parish President and Council Secretary on Bonds being authorized to be a facsimile signature), and shall deliver the same to the Trustee for authentication on the date of delivery thereof. The Trustee shall, upon authentication of the Bonds and receipt by the Trustee of documentation required by the Indenture, deliver the same in accordance with the Indenture, and the Trustee shall receive from the Underwriter for the account of the Issuer the purchase price, and shall deposit the proceeds of the Bonds in accordance with the Indenture. The Trustee is hereby requested and authorized to authenticate the Bonds in accordance with the terms of the Indenture. Compass Bank, Birmingham, Alabama, is hereby designated as the Trustee.

SECTION 9. That the Parish President and the Secretary of this Parish Council are hereby further authorized and directed, for and on behalf of and in the name of the Issuer, to execute, deliver and approve the Indenture, the Installment Sale Agreement dated as of June 1, 2007, between the Issuer and the Company (the "Sale Agreement"), the applicable tax and/or arbitrage certificate, and any and all instruments, documents and certificates which may be required by or provided for in the Indenture, the Sale Agreement or the Bond Purchase Agreement or as may otherwise be required for or necessary, convenient or appropriate to the financing described in this ordinance. Said officers are further authorized and empowered to approve, for and on behalf of and in the name of the Issuer, any changes, additions or deletions in any such documents, instruments and certificates referred to in this ordinance, provided that all such changes, additions or deletions, if any, shall be approved by bond counsel and shall be consistent with and within the authority provided by the Act. The signatures of said Parish President and Secretary upon any of the documents set forth above, or as may be otherwise required for or necessary, convenient or appropriate to the financing described in this ordinance, are deemed to be conclusive evidence of their due exercise of the authority vested in them hereunder.

SECTION 10. That the Issuer has agreed to issue the Bonds, in part in consideration of the Company being responsible for all costs and expenses of the Issuer associated with the issuance and delivery of the Bonds, with such costs being paid from an administrative fee established and charged by

the Issuer. The Issuer hereby directs the Parish President, prior to issuance and delivery of the Bonds, to determine any costs and expenses that are the responsibility of the Issuer, including without limitation, the fees and expenses of bond counsel and Issuer Counsel, and the Issuer hereby approves and establishes an administrative fee, to be due and payable by the Company at the closing, in an amount equal to such costs and expenses. The Parish President of the Issuer is hereby authorized to confirm and approve such administrative fee, and such confirmation and approval may be evidenced by the execution of a certificate by said Parish President approving such administrative fee, delivered at or prior to the closing.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: MARINO, FAUCHEUX, HILAIRE, FABRE, RAMCHANDRAN, WALLS,
BLACK, DUHE, MINNICH
NAYS: NONE
ABSENT: NONE

And the ordinance was declared adopted on this 18th day of June, 2007, to become effective five (5) days after publication in the official journal.

CHAIRMAN: [Signature]

SECRETARY: [Signature]

DLVD/PARISH PRESIDENT: June 19, 2007

APPROVED: DISAPPROVED:

PARISH PRESIDENT: Albert V. Lopez

RETD/SECRETARY: June 19, 2007

AT: 3:22 pm RECD BY: [Signature]