ORDINANCE NO. 2007-03

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A PROMISSORY NOTE TO PROVIDE FINANCING FOR VARIOUS CAPITAL IMPROVEMENTS; AUTHORIZING THE SALE OF THE NOTE AND THE EXECUTION OF A NOTE PURCHASE AGREEMENT, AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City of Mulberry, Arkansas (the "City") is authorized and empowered under the provisions of Amendment No. 78 to the Arkansas Constitution ("Amendment No. 78"), to issue notes and to expend the proceeds thereof to finance the cost of acquiring and constructing real property or tangible personal property having an expected useful life of more than one (1) year; and

WHEREAS, the City proposes to acquire a 1989 GMC 7000 Fire Truck (collectively, the "Capital Improvements" and individually, a "Capital Improvement"); and

WHEREAS, it is proposed that the City issue its Promissory Note (Capital Improvements Project) in the principal amount of $40,000 (the "Note") under Amendment No. 78 for the purpose of financing all or a portion of the costs of the Capital Improvement; and

WHEREAS, the city has made arrangements with Allied Bank of Mulberry (the "Purchaser") to purchase the Note; and

WHEREAS, a copy of the hereinafter described Note Purchase Agreement has been presented to and is before this meeting.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MULBERRY, ARKANSAS:

SECTION 1. The City Council hereby finds that each Capital Improvement to be acquired and constructed will have a useful life of more than one (1) year, that the City has no other obligations under Amendment No. 78, and that the principal amount of the Note does not exceed five percent of the assessed value of taxable property located within the City as determined by the last tax assessment.

SECTION 2. The issuance of the Note in the principal amount of $40,000.00 is hereby authorized. The note shall be dated the date of issuance and shall bear interest on the outstanding principal amount at the rate of 6.5% per annum. The Note shall be repaid in nine (9) equal installments of principal and interest, commencing six (6) months from the date of the Note, with the final installment due five (5) years from the date of the Note. The Note shall be subject to prepayment prior to maturity, in whole or in part, at the option of the City at any time without penalty.

SECTION 3. The Note shall be sold to the Purchaser for the purchase price of 100% of par, in multiple advances as funds are needed, upon the terms and conditions set forth in a Note Purchase Agreement by and between the City and Purchaser (the "Note Purchase Agreement"). The Mayor and Recorder/Treasurer are hereby authorized to execute, acknowledge and deliver the Note Purchase Agreement and the Note for and on behalf of the City. The Note Purchase Agreement and the Note are hereby approved in substantially the forms submitted to this meeting, and the Mayor is hereby authorized to confer with the Purchaser in order to complete the Note Purchase Agreement and the Note in substantially the forms submitted to this meeting with such changes as shall be approved by such persons executing the documents, their execution to constitute conclusive evidence of such approval.

SECTION 4. As provided in Amendment No. 78, the annual debt service payments on the Note in each fiscal year shall be charged against and paid from the general revenues of the City for such fiscal year. For the purpose of making the annual debt service payments, there is hereby, and shall be, appropriated to pay the Note, an amount of general revenues of the City sufficient for such purposes. The City Treasurer is hereby authorized and directed to withdraw from the General Fund of the City and/or from such other sources as may be hereafter directed by the City Council, the amounts and at the times necessary to make the semi-annual debt service payments on the Note and to make such payments in accordance with the Note Purchase Agreement.

SECTION 5. (a) The City covenants with the Purchaser that it shall not take any action or suffer or permit any action to be taken or condition to exist which causes or may cause the interest payable on the Note to be included in the gross income for federal income tax purposes. Without limiting the generality of the foregoing, the City covenants with the Purchaser that the proceeds of the sale of the Note will not be used directly or indirectly in such manner as to cause the Note to be treated as an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code").

(b) The City represents to the Purchaser that it will not use or permit the use of the Capital Improvement or the proceeds of the Note, in such manner as to cause the Note to be a "private activity bond" within the meaning of Section 141 of the Code. In this regard, the City covenants with the Purchaser that (i) it will not use (directly or indirectly) the proceeds of the Note to make or finance loans to any person, and (ii) that while the Note is outstanding the Capital Improvement will only be used by state and local governmental entities and by other persons on a basis as members of the general public.

(c) The Note is hereby designated as a "qualified tax-exempt obligation" within the meaning of the Code. The City represents to the Purchaser that the aggregate principal amount of its qualified tax-exempt obligations (excluding "private activity bonds" within the meaning of Section 141 of the Code which are not "qualified 501(c)(3) bonds"

within the meaning of Section 145 of the Code), including those of its subordinate entities, issued in calendar year 2001 will not exceed $10,000,000.

(d) The City shall pay any arbitrage rebate due the United States Treasury Section 148 of the Code in connection with the Note from moneys in the General Fund of the City.

(e) The City covenants with the Purchaser that it will not reimburse itself from Note proceeds for any costs paid prior to the date the Note is issued except in compliance with United States Treasury Regulation No. 1.150-2 (the "Regulation"). This ordinance is an "official intent" within the meaning of the Regulation.

(f) The City covenants with the Purchaser that it will submit to the Secretary of the Treasury of the United States, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Note is issued, a statement concerning the Note which contains the information required by Section 149(e) of the Code.

SECTION 6. The Mayor and Recorder-Treasurer, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Note Purchase Agreement and the performance of all obligations of the City thereunder, the issuance, execution, sale and delivery of the Note, and the performance of all acts of whatever nature necessary to effect and carry out the authority conferred by this Ordinance. The Mayor and Recorder-Treasurer are hereby further authorized and directed, for an on behalf of the City, to execute all papers, documents, certificates and other instruments that may be required for the carrying out of such authority or to evidence the exercise thereof.

SECTION 7. The Recorder-Treasurer is hereby authorized and directed to file in the office of the Recorder-Treasurer, as a part of the minutes of the meeting at which this Ordinance is adopted, for inspection by any interested person a copy of the Note Purchase Agreement and such document shall be on file for inspection by any interested person.

SECTION 8. The provisions of this Ordinance are hereby declared to be separable, and if any section, phrase of provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions.

SECTION 9. All ordinances, resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED AND APPROVED THIS 20TH DAY OF FEBRUARY, 2007.

APPROVED:

Betty Feller, Mayor

ATTEST:

Jerry Dickerson, Recorder/Treasurer

CERTIFICATE

The undersigned, Recorder-Treasurer of the City of Mulberry, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 2007-03, adopted at a regular session of the City Council of the City of Mulberry, Arkansas, held at the regular meeting place of the City at 7:00 o'clock, p. m., on the 20th day of February, 2007, and that the Ordinance is of record in Ordinance Record Book No. 2007 now in my possession.

GIVEN UNDER MY HAND AND SEAL ON THIS 20TH DAY OF *February*, 2007.

Jerry Dickerson, Recorder-Treasurer