ORDINANCE 2014-08

AN ORDINANCE SUPPORTING THE ADOPTION OF THE ARKANSAS DIAMOND DEFERRED COMPENSATION PLAN FOR THE CITY OF MULBERRY, REPEALING RESOLUTION NO. 88-1.

WHEREAS, the City Council of Mulberry, Arkansas (hereinafter referred to as the "City") has determined that in order to attract and retain qualified employees, it is necessary to provide a deferred compensation plan in accordance with the provisions of Arkansas Code Annotated §21-5-501, et. Seq., and in accordance with Section 457 of the Internal Revenue Code of 1986, as amended;

WHEREAS, the City wishes to participate in the Arkansas Diamond Deferred Compensation Plan ("Plan"), which is a deferred compensation plan established for the benefit of employees and independent contractors of the State of Arkansas, any agency or instrumentality of the State or a political subdivision of the State, in accordance with the provisions of Arkansas Code Annotated §21-5-501, et. Seq., and in accordance with Section 457 of the Internal Revenue Code of 1986, as amended;

WHEREAS, the City has determined that by participating in the Plan it will reduce overall administrative costs of operating a deferred compensation plan, and afford attractive investment options to its employees;

WHEREAS, the City is an Employer as defined in the Plan;

WHEREAS, in order to become a Participating Employer in the Plan the City must execute an Adoption Agreement to the Plan; and

WHEREAS, the City Council is authorized by law to adopt this ordinance approving the Adoption Agreement;

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

Section 1. The City adopts the Plan.

Section 2. The City acknowledges that the Plan Administrator for the Plan is the Executive Director, Employee Benefits Division, Department of Finance and Administration of the State of Arkansas.

Section 3. The Mayor is authorized to sign the Adoption Agreement to the Plan and by so signing, be bound by the terms of the Plan as stated in the Adoption Agreement and other Plan documents. The City reserves the right to amend its elections under the Adoption Agreement, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Plan Administrator.

Section 4. The City agrees that it shall abide by the terms of the Plan, including amendments to the Plan made by the Plan Administrator, all investment, administrative, and other service agreements of the Plan, and all applicable provisions of the Internal Revenue Code and other applicable law.

Section 5. The City accepts the administrative services to be provided by any service provider selected by the Plan Administrator. The City acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Participants' Plan Accounts.

Section 6. The City may terminate its participation in the Plan, including but not limited to, its contribution requirement, by way of:

i. An ordinance of the City Council terminating its participation in the Plan.
ii. The ordinance must specify when the participation will end.

The Plan Administrator shall determine whether the ordinance complies with the terms of the Plan, and all applicable federal and state laws. The Plan Administrator shall also determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However; distributions under the Plan of existing accounts to Participants will be made in accordance with the Plan.

Section 7. The City acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased by such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefits of participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying, reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, including employer contributions, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, are held as part of the Plan. All contributions to the Plan shall be transferred to the Plan Custodian to be held, managed, invested and distributed as part of the Plan's Custodial Account in accordance with the provisions of the Plan. The City must transfer all contributions to the Plan to the Plan Custodian. All benefits under the Plan shall be distributed solely from the Plan's custodial Account pursuant to the Plan

Section 8. It is the intent of the City that all new contributions made by the city on behalf of the employees after adoption of the Plan will be made to the Plan.

Section 9. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 10. If any part of this Ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force or effect of any other part of this Ordinance.

Section 11. In order to protect the viability of the retirement plan of employees of the City of Mulberry and to preserve the ongoing operations of municipal government, an emergency is hereby declared to exist and this Ordinance shall take full force and effect immediately upon its passage.

PASSED AND ADOPTED by the City Council of Mulberry, Arkansas, on this 21st day of October, 2014.

APPROVED: _____
Gary D. Baxter, Mayor

ATTEST: _____
Jerry Dickerson, Recorder-Treasurer