ORDINANCE NO. 2007-09

AN ORDINANCE CALLING A SPECIAL ELECTION IN THE CITY OF ATKINS, ARKANSAS ON THE QUESTION OF LEVYING A CITY-WIDE ONE AND ONE-HALF PERCENT (1.5%) SALES AND USE TAX; DEFINING THE TERM "SINGLE TRANSACTION"; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the City Council of the City of Atkins, Arkansas (the "City") has passed on April 24, 2007, Ordinance No. 2007-08 (the "Tax Ordinance") providing for the levy of a 1.5% sales and use tax within the City (the "Sales and Use Tax") to pay and secure the repayment of bonds approved by the voters and issued by the City from time to time for the purpose of financing all or a portion of the costs of extensions, betterments and improvements to the City's water system; and

WHEREAS, the Sales and Use Tax will be levied and collected on the gross receipts, gross proceeds or sales price for each "single transaction" in the maximum amount allowed from time to time by Arkansas law; and

WHEREAS, the purpose of this Ordinance is to call a special election on the question of the levy of the Sales and Use Tax and to define the term "single transaction";

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Atkins, Arkansas:

Section 1. There is hereby called a special election to be held on June 12, 2007, at which election there shall be submitted to the electors of the City the question of the levy of the Sales and Use Tax.

Section 2. The question of levying the Sales and Use Tax shall be placed on the ballot for the election in substantially the following form:

The collections of the tax after the State of Arkansas deducts its administrative charges shall be used for the purposes set forth below; provided that any amounts not necessary to pay in full the bonds and all obligations of the City with respect thereto may be used for water purposes. The tax shall expire on the first date on which the tax can be administratively removed when (a) there are sufficient funds to pay in full outstanding bonds secured by a pledge of collections of the tax and (b) the City Council determines that the purposes of the tax cannot be or cannot

continue to be fulfilled because no bonds secured by a pledge of collections of the tax will be issued in the future.

1.5% CITY-WIDE SALES AND USE TAX

Vote FOR or AGAINST adoption of a 1.5% local sales and use tax within the City of Atkins to pay and secure the repayment of bonds approved by the voters and issued by the City from time to time for the purpose of financing all or a portion of the costs of extensions, betterments and improvements to the City's water system.

FOR the 1.5% Sales and Use Tax . . . . . ☐

AGAINST the 1.5% Sales and Use Tax . . . . . ☐

Section 3. The election shall be held and conducted and the vote canvassed and the results declared under the law and in the manner now provided for municipal elections and only qualified voters of the City shall have the right to vote at the election.

Section 4. The results of the election shall be proclaimed by the Mayor, and such Proclamation shall be published one time in a newspaper published in the City and having a general circulation therein, which Proclamation shall advise that the results as proclaimed shall be conclusive unless attacked in the courts within thirty days after the date of publication.

Section 5. A copy of this Ordinance shall be given to the Pope County Board of Election Commissioners so that the necessary election officials and supplies may be provided. A certified copy of this Ordinance and the Tax Ordinance shall also be provided to the Commissioner of Revenues of the State of Arkansas as soon as practical.

Section 6. The Mayor and City Clerk, for and on behalf of the City, are hereby authorized and directed to do any and all things necessary to call and hold the special election as herein provided and, if the levy of the Sales and Use Tax is approved by the electors, to cause the Sales and Use Tax to be collected, and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance.

Section 7. "Single transaction" is defined according to the nature of the goods purchased as follows:

A. When two or more devices in which, upon which or by which any person or property is, or may be, transported or drawn,

including but not limited to, on-road vehicles, whether required to be licensed or not, off-road vehicles, farm vehicles, airplanes, water vessels, motor vehicles, or non-motorized vehicles, and mobile homes, are sold to a person by a seller, each individual unit, whether part of a "fleet" sale or not, shall be treated as a single transaction for the purpose of the Sales and Use Tax.

B. The charges for utility services, which are subject to the Sales and Use Tax, and which are furnished on a continuous service basis, whether such services are paid daily, weekly, monthly or annually, for the purposes of the Sales and Use Tax, shall be computed in daily increments, and each such daily charge increment shall be considered to be a single transaction for the purposes of the Sales and Use Tax.

C. For sales of building materials and supplies to contractors, builders or other persons, a single transaction, for the purposes of the Sales and Use Tax, shall be deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate sales (or use) tax figure has been reported and remitted to the State of Arkansas.

D. When two or more items of major household appliances, commercial appliances, major equipment and machinery are sold, each individual unit shall be treated as a single transaction for the purposes of the Sales and Use Tax.

E. For groceries, drug items, dry goods and other tangible personal property and/or services not otherwise expressly covered in this Section, a single transaction shall be deemed to be any single sale which is reflected on a single invoice, receipt or statement, on which an aggregate sales tax figure has been reported and remitted to the State of Arkansas.

Section 8. In the event the Arkansas Legislature shall define "single transaction," the Arkansas Legislature's definition shall replace the one in Section 7 hereof.

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

PASSED: April 24, 2007.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

CERTIFICATE

The undersigned, City Clerk of the City of Atkins, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 2007-09 passed at a special session of the City Council, held at the regular meeting place of the City Council at 7:00 o'clock p.m., on the 24th day of April, 2007, and that the Ordinance is of record in Ordinance Record Book No. _____, Page _____, now in my possession.

GIVEN under my hand and seal this 24th day of April, 2007.

Brenda Graves
City Clerk

(SEAL)