Out

ORDINANCE NO. 247

An ordinance providing for the improvement and extension of the municipally owned waterworks now serving the City of Atkins, Arkansas, the issuance of water inprovement revenue bonds, and the setting up of certain funds: and declaring an emergency:

Whereas, the City of Atkins, Arkansas, a city of the second class, owns and operates its municipal waterworks an which there is no indebtedness; and,

Whereas, the City needs to improve its present waterworks in order to give more adequate service to the pupulation; and

Whereas, the City has had Haws, & Drge, Conculting engineers of Little Rock, Arkansas, prepare plans, specifications, and estimate of cost for the improvements comtemplated which were filed with the City Recorder on or about August, 1953, and have been and are now open to the examination of any person who is interested, and show an estimatee cost of the proposed improvements to the waterworks system of $40,950. to which must be added the sum of $9,050. for other incidental improvements, engineering and attorney's fees and cost of issuing bonds, making atotal issue of $50,000; and,

Whereas, after an advertised public sale, the City Council rejected all bids and then negotiated a sale to Womeldorff & Lindsey, investment bankers of Little Rock, Arkansas, who submitted a proposal to buy at par plus accrued interest a series of $50,000. of water improvement revenue bonds to be dated March, 1954, and to mature serially on Jan. 1 of each year as follows:

$1500 in 1956 and 1957
$2000 in 1958 to 1964, inclusive
$2500 in 1965 to 1968, inclusive
$3000 in 1969, 1970 and 1971
$3500 in 1972 to 1975, inclusive

The bonds bear interest payable semi-annually at the rate of 3½% per annum, and the offer is made upon the condition that the purchasers shall have the right to convert the 3½% bonds to bonds bearing lower rates of interest, upon condition that the City shall receive no less and pay no more than it would receive and pay if the bonds were not converted; and,

Whereas, the buyers have elected to convert the bonds to a series of $53,000. in bonds dated March 1, 1954, maturing and bearing interest as hereinafter set out, and they have submitted computations showing that the cost of maturing the bonds after conversion is $57.70 less than the cost of maturing the bonds according to the original interest rate, and that, therefore, the City will receive the same amount that it would receive before conversion and will not pay as much as it would pay if the bonds were not converted; and,

WHEREAS, the City K owns a municipal sewer system which is operated with the waterworks system, and includes the operation of both systems in the water charges, with no separate charge for sewer services, and certain improvements are needed for the sewer system; now, therefore,

Be it ordained by the City Council of the City of Atkins, Arkansas:

Section 1. The council hereby finds and declares that there is immediate need for the improvement of the municipal waterworks system and the sewer system now serving te inhabitants of the City. A brief description of the proposed improvements is as follows: For the sewer system: betterments and improvements to the existing sewage treatment plant consisting of a sludge pump and sludge bed to the present Imhoff tank and cleaning out the sludge in White Oak ____?____, into which the sewage is now discharged; for the water system; to drill a 150-gallon per minute well, put in a pump, and connect it to the present mains, and to install improvements and betterments to the existing water treatment plant and sundey small improvements to the waterworks plant at a total estimated cost of $50,000. The proposed improvements to the waterworks and sewer systems are hereinafter termed the "works", and the present waterworks and sewer systems, plus the proposed improvements are hereinafter collectively termed the "System".

Section 2. The council hereby finds and declares that the period of usefulness of the existing waterworks and sewer systems now serving the City of Atkins is more than forty years, which is longer than the term of the proposed revenue bonds.

Section 3. The council hereby further finds and declares that the offer of Womeldorff & Lindsey for the pruchase of the revenue bonds is at a fair price and one that is allowed by law and that the conversion of the bonds to bonds bearing lower interest rates, as hereinafter set out is within the terms of the proposed submitted for the prchase of said bonds, and, therefore, the conversion is approved, and the bonds are hereby sold to said buyers.

Section 4. That under the authority of the general statutes of the State of Arkansas, and particularly Act No. 131 of the General Assembly of the State of Arkansas for the year 1933, as amended (sometimes hereinafter termed "Act No. 131, as amended), water improvements revenue bonds be issued in the total amount of $53,000., the proceeds of the sale of which shall be used to pay the cost of the works, including engineering and legal fees, interest on the bonds during the priod of construction and for six months after the completion thereof, and other necessary expenses; that said bonds be designated "City of Atkin, Arkansas, ____% water improvement revenue bonds.", to be dated as of March 1954, numbered from 1 to 58, both inclusive, to be sometimes hereafter referred to as "bonds" to be in the denomination of $1000 e except bonds Nos. 13, 16, 19, 22, 25,28,31,50,54, and 58, which

are in the denomination of $500 each, to be callable as hereinafter set forth, and to mature in numerical order on January 1 of each year as follows:

YEAR	BOND NOS.	AMOUNT
1956	1 and 2-	$2000
1957	3 and 4	2000
1958	5 and 6	2000
1959	7 and 8	2000
1960	9 and 10	2000
1961	11,12, and 13	2500
1962	14, 15, and 16	2500
1963	17, 18, and 19	2500
1964	20, 21, and 22	2500
1965	23, 24, and 25	2500
1966	26, 27, and 28	2500
1967	29, 30, and 31	2500
1968	32, 33, and 34	3000
1969	35, 36, and 37	3000
1970	38, 39, and 40	3000
1971	41, 42, and 43	3000
1972	44, 45, and 46	3000
1973	47 to 50, incl.	3500
1974	51 to 54, incl.	3500
1975	55 to 58, incl.	3500

The bonds bear interest payable semi-annually on Jan. 1, and July 1 of each year at the following rates per annum: Nos 1 to 25, inclusive, at 3 3/4%, and Nos 26 to 58, inclusive, a 3%. The bonds shall be signed by the Mayor and City Recorder and sealed with the seal of the City; the incorporate seal of the Cit; the interest upon the bonds shall be evidenced by coupons attache thereto, the coupons to be signed by said Mayor by his facismile signature, and the Mayor shall by the exeuction of the bonds adop as and for his own proper signature his facsimile signature appea on said coupons. The bonds shall be payable in lawful money of t United States of America at the office of the First National Bank in Little Rock, Arkansas.

The bonds, together with interest thereon, shall be payable solely out of the water improvement revenue bond fund as hereinafter defined, and shall be a valid claim of the holder ther of only against such fund, and the amount of the revenues pledged said fund which amount of said revenues is hereby pledged and mort gaged for the equal and ratable payment of the bonds and shall be used for no other purpose than to pay the principal and interest o the bonds except as hereinafter set out.

Section 5. Said bonds and coupons shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF POPE
CITY OF ATKINS
____% Water Improvement Revenue P

NO.____ $_____

KNOW ALL MEN BY THESE PRESENTS:

That the City of Atkins, in the County of Pope, State of Arkansas, for value received hereby promises to pay solely from the special fund provided therefor as hereinafter set forth, to be the sum of $_____ dollars on the first day of Jan. 19____, with the interest thereon at the rate of___ per centum (___) per annum from date until paid, payable on Jan. 1, 1955, and semi-annually thereafter upon presentation and surrender of the annexed coupons as they severally come due. Both principal hereof and interest herein shall be payable in lawful money of the United States of America at the office of the First National Bank in Little Rock, Arkansas.

This bond is one of a series of bonds aggregating Fifty-three thousand dollars ($53,000) of like tenor and effect except as to number denomination, interest rate and maturity numbered from 1 59 58, both inclusive, and issued for the purpose of improving the existing municipal waterworks and sewer systems. (The water-works and sewer systems will be hereinafter called the "System").

This bond and the series of which it forms a part are issued pursuant to and in accordance with the provisions of the laws and constitution of the State of Arkansas, and particularly Act No. 131 of the Acts of the General Assembly of the State of Arkansas for the year 1933, as amended, and do not constitute an indebtedness of the City of Atkins within any constitutional or statutory limitation. Said bonds are payable solely from a fixed amount of the revenue from the system, which amount shall be sufficient to pay the principal of and the interest on the bonds as the same become due and payable. Said amount has been duly set aside and pledged as a special fund for that purpose and identified as the Water Improvement Revenue Bond Fund, created by the ordinance by which this bond is quthorized to be issued, and the said City of Atkins has fixed and has convenanted and agreed to maintain rates for water services which shall be sufficient at all times to provide for the payment of the reasonable expenses of operation, repair and maintenance of said System and to provide for the payment of the principal of and interest on the bonds of this issue as the same became due and payable.

This bond is expressly made negotiable by the statutes under which it is issued, and is issued with the intent that the laws of the State of Arkansas shall govern the contruction thereof.

The bonds of this issue are callable for payment prior to maturity at par and accured interest in inverse numerical order, as follows: from surplus revenues derived from operation of the system or from proceeds of the bond sale remaining after completion of the work for which the bonds are issued, on any interest paying date; from funds from any source, on any interest paying date on and after Jan. 1, 1959. In the event a call is made, the City shall publish notice of such call for redemption once a week for two weeks in some newspaper of general circulation throughout the State of

Arkansas and published in the City of Little Rock, Arkansas, giving the number and maturity of each bond being called, the first publication to be at least fifteen days prior to the date fixed for redemption, each bond so called will cease to bear interest, provided funds for its payment are on deposit with the paying agent at that time.

It is Hereby Certified, recited and declared that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this bond do exist, have happened and have been performed in due time, form and manner as required by law, and that sufficient income and revenues which are deemed to be derived from the operation of said system has been pledged to and will be set aside into said special fund for the payment of the primipal of and interest on said bonds.

This bond shall not be valid until it shall have been authenticated by the certificate hereon, duly signed by the First National Bank in Little Rock, Arkansas.

In witness whereof, the City of Atkins, Arkansas, by its City Council has caused this bond to be signed by the Mayor and City Recorder thereof and sealed with the corporate seal of said City, and has caused the coupons heroto attached to be executed by the facsimile signature of said Mayor, all as of the first day of March, 1954.

CITY OF ATKINS, ARKANSAS

BY_____
MAYOR

(SEAL)

ATTEST:

_____
CITY RECORDER

(Form of Coupon)

No._____ $_____

On the first day of Jan. 1, July, 19_____, unless the bond to which this coupon is attached is sooner called for payment the City of Atkins, Pope County, Arkansas, promises to pay to bearer the sum of_____ Dollars in lawful money of the United States of America solely out of the fund specified in the bond to which this coupon appertains, at the office of The First National Bank in Little Rock, Arkansas, being interest then due its Water Improvement Revenue Bond dated March 1, 1954, and numbered_____ X.

CITY OF ATKINS, ARKANSAS

BY_____
MAYOR

(The first coupon shall be for ten months interest. The Mayor's signature on the coupons may be lithographed or engraved)

On the back of said bonds is to appear the following:

CERTIFICATE

This is one of the 58 bonds aggregating $53,000 described within.

THE FIRST NATIONAL BANK
IN LITTLE ROCK, ARKANSAS, TRUSTEE

BY _____
TRUST OFFICER

LITTLE ROCK, ARKANSAS

Section 6. The City Council hereby fixes the rates to be charged for services to be furnished by thw waterworks, as follws:

Water Rates Per Month

First	2,500 gallons per month	2.50
Next	1,000 gallons per month	.50 per 1000 gal
Next	31,500 gallons per month	.40 per 1000 gal
Next	15,000 gallons per month	.30 per 1000 gal
Next	50,000 gallons per month	.25 per 1000 gal
Next	100,000 gallons per month	.20 per 1000 ga
All over	200,000 gallons per month	.15 per 1000 ga
Minimum monthly charge		2.50

Each until in an apartment house shall be counted as a separate consumer.

The bills for water charges will be rendered monthly, and if not paid by the tenth day of the month, apenalty of 10% will be added, and if not paid within thirty days, water service will be cut off and befor water service will be restored all delinquent charges must be paid, plus a charge of $1.00 for making the connection.

The Council hereby finds the rates so fixed to be reasonable and the necessary minimum rates to be charged, and said rates are hereby approved and confirmed. The Council further finds and declares that the rates fixed by this Ordinance will produce a total revenue sufficient to pay the costs of the operation, repair and maintenance of the system and to provide an annual net revenue, as defined in Section 9 of this ordinance, equivalent to 150% of the average annual principal and interest maturities of the bonds. The city pledges that it will never reduce the rates to a schedule that will produce a net revenue of less than 150% of the average annual requirements of the bonds and interest of this issue, and shall when necessary increase the rates in an amount sufficien to provide for the maintenance of the funds hereinafter described. The Trustee shall be the sole judge as to the necessity for any increase in the rates.

Section 7. Water Fund. From and after the delivery of any bonds issued under the provisions of this ordinance, the System shall be continuously operated as a revenue-producing undertaking. The income and revenues from such operation shall be set aside into a separate and special fund hereby created and designated "Water Fund". Such income and revenues are hereby pledged, and shall be applied, to the payment of the operation, repair, and maintenance of the System, to the payment of all bonds issued under this ordinance and secured hereby, and the interest thereon, and to provide an adequate depreciation fund, in the manner hereinafter set out.

Section 8. Water operation and Maintenance Fund. There shall be pai from the Water Fund into a fund which is hereby created and designated "Water Operation and Maintenance Fund" (hereinafter sometimes called "Operation Fund", [illegible] on the first day of each month while any of the bonds issued under and secured by this ordinance shall be outstanding, sufficient money to pay all the operating expenses and to make reasonable provision for the repair and maintenance of the system. Fixed annual charges, such as insurance and the cost of major repair and maintenance expenses, may be computed and set upon an annual basis and 1/12 of the amount thereof may be accumulated in said Operation Fund each month. Disbursements from said fund shall include salaries, wages, cost of maintenance repair and operation, materials and supplies, pumping costs, and insurance.

If any surplus shall be accumulated in the operation fund over and above the amount which shall be necessary to defray the cost of maintenance, repairing, and operating the system during the remainder of the then current fiscal year and the next ensuing fiscal year, such surplus or excess may be transferred to and paid into the Water Depreciation Fund or into the Water Improvement Revenue Bond Fund; provided, however, that such transfer or payment into the Water Improvement Revenue Bond Fund shall be in addition to all other payments hereinafter required to be made into said Fund.

Section 9. Water Improvement Revenue Bond Fund.

(a) The balance of the revenues of the system, including all revenues from any and all future improvements and extensions to the system, after making the required payments into said Operation Fund, is hereby declared to be the net revenues of said system. There is hereby authorized and created, and so long as any of the bonds hereby authorized are outstanding there shall be maintained a special fund to be known as the "Water Improvement Revenue Bond Fund" (sometimes hereinafter called the "sinking fund"), into which there shall be set aside from said net revenues such portion thereof as will be sufficient to pay the interest on said bonds as the same becomes due, to pay the necessary fiscal agency charges for paying bonds and interest, and to pay the principal of said bonds at or before maturity, as herein provided, and to create a margin of safety. It is hereby determined and agreed that the minimum amounts to be so set aside and paid into the sinking fund each month for account of the bonds herein authorized shall be, in addition to the paying agent's fees, not less than 1/6 of the amount of interest becoming due on the next succeeding interest payment date plus 1/12 of the amount of principal becoming due on the next succeeding principal payment date plus the sum of $60, until a reserve of $3500. has been accumulated.

Provided, however, that no further payments need be made into said sinking fund after and so long as such amount of the bonds shall have been retired that the amount then held in such sinking fund, including the reserve is equal to the entire amount of the interest and principal that will have accrued and become due at the time of the retirement or maturity of all bonds then remaining outstanding.

The undertaking to transfer and pay the prescribed amounts from said Water Fund into said sinking fund shall be cumulative so that in the event the net revenues during any month are inadequate to make the required transfer and payment, or if for any other reason there be a failure to make such transfer and payment, the amount of the deficiency shall be made up from the first available net revenues thereafter received, and the same shall be in addition to the amounts otherwise required to be transferred and paid into said sinking, fund.

(b) Said sinking fund shall be used solely and only and is hereby pledged for the purpose of paying the interest on and accomplishing the retirement of the bonds herein authorized. Withdrawals and remittances to the place of payment of the principal and interest shall be made in ample time to meet the semi-annual payments of such principal and interest.

It shall be the duty of the City Treasurer to deliver to the Trust not less than five days before the due date of any semi-annual payment interest or annual payment of principal, a check or voucher drawn on th sinking fund, to be used to meet the payment then due, together with th paying charges hereinafter set out.

(c) The reserve of $3500 to be accumulated in the sinking fund as hereinabove provided shall be disignated "Reserve Fund", and whenever withdrawals are made from said reserve fund so as to reduce the balance therein to less than $3500, the extra payments of $60 per month above described shall be resumed and shall be continued as long as may be necessary to restore the amount in said reserve fund to $3500. The funds in said Reserve Fund shall be held by the City as a truste accout or at the option of the City, they may be invested in bonds or other direct or fully guaranteed obligations of the United States of America maturing or being subject to retirement at the option of the holder within not more than ten years from the date of such investment. Withdrawals and disbursements may be made from said Reserve Fund to meet the payment of interest or principal to whatever extent funds in the sinking fund are insufficient for that purpose or for meeting specail and unforeseen emergenices or repairs or replacement work which could not have been anticipated or which is essential for the continued operation of the System and for the payment of which there are no other funds availabe.

Section 10. Water Depreciation Fund. There shall be paid from the Water Fund into a fund which is hereby created and designated "Water Depreciation Fund" (hereinafter sometimes called "Depreciation Fund") on the first day of each month while any of the bonds issued under this ordinance shall be outstanding, five per centum (5%) of all revenues derived from the operation of the System. Moneys in the Depreciation Fund shall be used sole for the purpose of paying the cost of replacements made necessary by the depreciation of the system.

If any surplus shall be accumulated in the Depreciation Fund over and above the amount which shall be necessary to defray the cost of the probable replacements during the then current fiscal year and the next ensuing fiscal year, and which is in the judgment of the City is not needed for replacement, such surplus or excess may be transferred and paid into the sinking fund; provided, however, that such transfer or payment into the sinking fund shall be in addition to all other payments herein required to be made into said fund.

Section 11. The revnaue from the System which remains after making full provision for the funds hereinabove established, including the $3500 Reserve Fund is hereby declared to be surplus revenue and may be used by the City to call bonds of this issue for payment prior to maturity or to make improvements or extensions to the System or for other legal municipal purposes.

Section 12. There shall be a statutory mortgage lien upon the improvements to the waterworks constructed from the proceeds of this bond issue, which shall exist in favor of the holder of the bonds and each of them and to and in favor of the holders of the coupons attached to said bonds, and such improvements shall remain subject to such statutory mortgage lien until payment in full of the interest on and principal of the bonds; provided, however, that such statutory mortgage lien shall be interpreted according the decision of the Supreme Court of Arkansas cited as City of Harrison V. Braswell, 209 Ark. 1094, 194SW (2d) 12, and that said statutory lien shall not be asserted or enforced as to result in a foreclosure or sale of any of the properties constituting the municipal waterworks, but said statutory mortgage lien co

shall be construed, recognized and enforced only for the purpose of preventing the sale, attempted mortgage, lease, or disposal in any other manner of an integral part of said system.

Section 13. Nothing in this ordinance shall be contrued to prevent the issuance by the City of additional bonds to finance or pay the cost of construction of any extensions, betterments or additions to the system; provided, however, that the City shall not authorize or issue any such additional bonds so long as any of these bonds are outstanding unless the gross revenues derived from the System for the two fiscal years then next preceding shall have been sufficient to provide for all costs of operation repair, maintenance, and depreciation of the System and leave a balance equal to at least 150% of the aggregate of (a) principal and interest payments for such year and all bonds then outstanding and the fiscal agency charges therefor; (b) one year's interest on the total issue of such additional bonds then proposed to be issued; and (c) an amount of principal of such additional bonds for one year computed by dividing the total amount of such issue by the number of years to the fiscal maturity date of such bonds. Provided, further, that no water revenue bonds shall be issued having a lien on water revenues prior to the lien of this issue, but nothing herein shall be construed to prevent the City from issuing bonds subject to the prior lien of the bonds of the issue authorized by this ordinance for the purpose of making extensions or improvements, or both, to the System.

Section 14. The Mayor and City Recorder are hereby authorized and directed to execute the bonds and deliver them to the buyers upon the payment of the full purchase price and accured interest. The money received for accured interest shall be paid into the Water Improvement Revenue Bond Fund. The balance of the money received for the bond issue shall be deposited in a fund hereby created and designated "Construction Fund," and shall be used solely for the purpose of paying the cost of the Works according to the plans thereof which are now on file, together with the necessary engineering, legal, and other expenses incidental to such construction, and except for legal and engineering costs, shall be paid out only on engineer's estimates, and each depository shall be notified of this requirement. Provided, the City shall be and is hereby authorized to set aside in the Water Improvement Revenue Bond Fund from the proceeds of the bond sale a sum sufficient to pay interest on the bonds during the period of construction of the Works as estimated by the engineer, and for six months thereafter, and the paying agent's fee. The Construction Fund may be deposited in one or more banks, each of which shall be a member of the Federal Deposit Insurance Corporation, but each depository shall be required to give security for that part of the deposit which exceeds the amount guaranteed by said F. D. I. C. said security to be either a surety bond executed by a corporation authorized to do business in Arkansas, or the escrow deposit of bonds issued by or fully guaranteed by the United States of America. In the event that any funds remain in the Construction Fund after the completion of the Works, such balance shall be immediately transferred to the Water Improvement Revenue Bond Fund.

Section 15. For and in consideration of the purchase and acceptance of the bonds authorized by this ordinance and to facilitate their payment, with interest, the City agrees to the following terms:

(a) None of the facilities or services afforded by the System shall be furnished without a reasonable charge being made therefor. In the event that the City or any department, agency, or instrumentality thereof shall avail itself of the facilities or services afforded shall be charged against the City or such department, agency, or instrumentality, and shall be paid for as the charges therefor accrue. The revenues so received from the City shall be deemed to be revenues derived from operation of the System; provided, however, that nothing herein shall be construed as requiring the City or any department, agency, or instrumentality thereof to avail itself of the facilities or services afforded by the System.

(b) The City will maintain the System in good condition and operate the same in an efficient manner and at a reasonable cost. So long as any of the bonds are outstanding, the City agrees to maintain fire, lightning and tornado insurance on the System in an amount which normally would be carried by a private company engaged in a similar type of business. These insurance policies are to be taken with companies approved by the Trustee, are to carry a clause making them payable to the Trustee as its interest may appear, are to be kept continuously in force, and either the original policies of insurance shall be placed in the custody of the Trustee or the Trustee shall be furnished evidence satisfactory to it that the policies have been issued and carry the loss payable to the Trustee clause. In the event of loss, the proceeds of such insurance are to be applied solely toward the reconstruction, replacement, or repair of the System. In such event the City will, with reasonable promptness, cause to be commenced and completed the reconstruction, replacement and repair. Nothing herein shall be construed as requiring the City to expend any funds for premiums on its insurance on the System which are derived from sources other than the operation of the System.

(c) The City Treasurer shall be the custodian of the revenues derived from the System, and shall give bond as such custodian. Such bond shall be in an amount not less than $_____ and shall be approved by the Trustee.

(d) All revenues from the System shall be deposited in such depositor or depositories as may be lawfully designated from time to time subject, however, to the giving of security by each such depository as now or as hereafter may be required, and provided each shall hold membership in the Federal Deposit Insurance Corporation. All deposits shall be made in the name of the City and be so designated as to indicate the particular fund to which the revenues belong. Payments from each fund set out in this ordinance shall be made by check or voucher signed by two duly designated persons and drawn on the depository in which the moneys in said fund shall have been deposited and each such check or voucher shall briefly specify the purpose of the expenditure.

(e) The bonds, together with interest thereon, are not general obligations of the City nor do they constitute an indebtedness of the City within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely out of the Bond Fund and shall be a valid claim of the holders thereof only against said Fund, and the amount of revenue pledged to said Fund, which Fund is hereby pledged for the equal and ratable payment of the bonds issued by authority of this ordinance and shall be used for no ther purpose than to pay the principal and interest of the bonds as the same mature, except as provided in this ordinance.

(f) The System shall be operated on a fiscal year basis, beginning _____of each year and ending and including the following_____.

(g) It is covenanted and agreed by the City with the holder or holders of the bonds, or any of them that it will faithfully and punctually perform all duties with reference to the System required by the Constitution and statutes of the State of Arkansas, including the making and collecting of reasonable and sufficient rates lawfully established for services rendered by the System and applying the revenues therefrom to the respective funds herein erected.

(h) So long as any of the bonds are outstanding, the City will not mortgage, pledge, or otherwise encumber the System or any part thereof or any revenues therefrom to the respective funds herein except as herein provided and will not sell, lease, or otherwise encumber the System, shall be made a matter of public record by having a certified copy of this ordinance recorded as a mortgage in the office of the Circuit Clerk and ex-officio Recorder of Pope County, Arkansas.

(I) The City will keep proper books of records and accounts (separate from all other records and accounts) in which complete and correct entires shall be made of any transaction relating to the System. The City agrees to have these records audited by an independent certified public accountant at least once each year, and it shall furnish the Trustee a copy of this audit. In the event that the City fails or refuses to make the audit, the Trustee may have the audit made, the cost thereof to be charged to the cost of operation.

(j) If there be any default in the payment of either the principal or the inerest on any of the bonds, the holder or holders of any of the bonds may enforce any mortgage lien granted by statute and may by proper suit compel the performance of the duties of the official of the City, as set forth in the statutes authorizing the bonds. If there be default in the payment of the principal or interest on bonds or if City shall fail to keep any other obligation which it herein assumes, and such default shall continue for thirty days thereafter, any court having jurisdiction in any proper action, which may be instituted either by Trustee on behalf of all bondholders, or by the holder of a bond in default, may appoint a receiver to administer the System on behalf of the City, with power to charge and collect rates sufficient to provide for the expenses of the receivership, the payment of the bonds and interest thereon, and for the payment of the operating expenses, and to apply the income and revenues in conformity

unless said Trustee shall have been specifically notified in writing of said default; nor shall it be required to take any action hereunder until it shall have been indemnified to its satisfaction by the holders of the bonds herein mentioned, or some of them, against loss or damage on account thereof. The Trustee is authorized in its descretion to release any real or personal property no longer used in the operation of the System. The holder or holders of a majority in value of the bonds at any time outstanding may at their option remove the Trustee and appoint a successor Trustee by an instrument duly acknowledged and filed for record in the office of the Circuit Court and ex-officio Recorder of Pope County. The Trustee may resign at any time upon 10 days written notice to City Recorder. The successor trustee shall have all rights and powers of the originally appointed Trustee.

Section 16. The Mayor is hereby directed to publish for one insertion in The Atkins Chronicle, which is hereby found and declared to be a newspaper published in and of general circulation in the City of Atkins, Arkansas, a certified copy of this ordinance, preceded by a notice signed by him, in substantially the following form:

NOTICE

Notice is hereby given that the City Council of the City of Atkins, Arkansas, has adopted the ordinance hereinafter set out; that said City contemplates the issuance of the bonds described in said ordinance; that any person interested may appear before the Council on the 16th day of March, 1954, at 7:30 o'clock p. m. at the usual place of meeting in the City of Atkins, and be heard at such hearing all objections and suggestions will be heard and said Council will take action as is deemed proper in the premises.

Dated this 2nd day of March, 1954. Mayor of Atkins, Arkansas

ATTEST:

FRANK CLEVELAND, CITY RECORDER

Section 16. It is hereby ascertained and declared that there is immediate need, in order to protect the health and property of the inhabitants of the City, for the improvement of the waterworks and sewer systems now serving the City of Atkins, Arkansas; therefore, an emergency exists and this ordinance is necessary for the preservation of the public peace, health and safety, and shall take effect and be in force without delay from and after its passage.

Passed: March 2, 1954

Approved: Paul Hurst, Mayor

Attest: Frank Cleveland, City Recorder

with said statutes and this ordinance providing for the issuance of said bonds, but when all defaults are cured, the receivership shall be ended and the management and control of the System restored to the City.

(k) The City further covenants and agrees that if default is made in the payment of any bond or coupon, or if the City fails to meet any sinking fund requirements, the holder of such bond may declare that bond immediately due and payable and in default, and either the Trustee on behalf of all the bondholders or any bondholder for himself may institute suit to anforce the pledge lien herein granted. The failure to exercise thi option upon any default shall not be a waiver of the right to exercise it upon any subsequent default.

(l) The bonds authorized hereby shall be callabel for payment before maturity according to terms set out in the bond form.

(m) The charges for paying bonds and interest coupons shall be 1/8 of 1% on principal and 5¢ per interest coupon; the minimum fee for any purpose other than the payment of bond Fund or with the Trustee shall be at the sole risk of the City and shall not operate as a payment of the bonds or coupons until so applied.

(n) The City hereby agrees to make all payments on bonds and interest only through the designated paying agent. All bonds paid or purchased, either at or before maturity, shall be canceled when such payment or purchase is made, togetehr with all unmature coupons appertaining thereto, shal be returned to the City, and shall not be reissued. All unpaid interest coupons maturing on or prior to the date of such payment or purchase shall continue to be payable to the respective bearers hereof.

(o) It is hereby declared that the provisions of this ordinance are separable, and if any provision of this ordinance shall for any reason be held illegal or invalid, it shall not affect the validity of the remainder of the ordinance.

(p) It is hereby declared that the provisions of this ordinance constitute a contract by and between the City and the holders of the bonds and interest copons issued by authority thereof; and after the bonds have been issued and paid for, the terms of said provision shall not be changed except with the written consent of the holders of all bonds and coupons then outstanding.

(q) Wherever reference is made in this ordinance to a Trustee, it shal refer to the First National Bank in Little Rock, Ark. The said Trustee shal be responsible only for willful misconduct in the execution of this trust. The recitals of fact herein contained, and contained in the bonds, except the recitals in the Trustee's Certificate, are statements of the City and shall not be construed as being made by the Trustee. The Trustee shall not be required to effect insurance against fire or damage to mortgaged property not to advance any money to pay insurance premiums, nor to pay any charges or special assessments against said property, nor to see that this pledge of revenue is properly recorded and kept in force as a pledge, nor shall it be required to take notice or be deemed to have had notice of any default of the City in the failure to perform any of the conditions of this ordinance,

CERTIFICATE

I, the undersigned, City Recorder of the City of Atkins, Arkansas, hereby certify the foregoing to be a true copy of an ordinance passed by the City Council at a duly called and constituted meeting at which more than two-thirds of the total number of members-elect of the Council were present and voted for said ordinance, which is now of record in Book 1, page 20 of the records of said City.

Certified under my hand and the seal of said City, this 2nd day of March, 1954.

CITY RECORDER

(SEAL)