OK

ORDINANCE NO. 258

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF WATER AND SEWER REFUNDING AND IMPROVEMENT REVENUE BONDS FOR THE PURPOSE OF EXTENDING AND IMPROVING THE PRESENT WATER AND SEWER SYSTEMS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, The city of Atkins, Arkansas, owns its municipal waterworks and sewer systems, and has an outstanding balance of water revenue bond issue dated March 1, 1954; and the City needs to extend and improve the two systems in order gave adequate service to the inhabitants of the City; and

WHEREAS, The City Council has had Mickle-Daniel Associates, consulting Engineers, of Fort Smith, Arkansas, prepare plans and estimates of cost of the proposed improvements, which they have done and have filed with the City Recorder, showing an estimated cost of $160,000; and

WHEREAS, the City has negotiated with E. L. Villareal & Company, Inc., Investment Bankers, Little Rock, Arkansas, the sale of $160,000 in bonds dated June 1, 1962, and maturing serially on December 1 of the years 1963 to 1983, both inclusive (of which the first $21,500 are refunding bonds bearing interest at the following rates per annum: $3500 in 1963 and $4000 in 1964, at 2 3/4%; $4000 in 1965 and $5000 in 1966 and 1967, at 3% and the remaining $138,500, maturing from 1968 to 1983, are new improvement bonds par and accrued interest, and in addition the purchasers will pay the cost of printing the bonds and the fees of the trustee, paying agent and bond counsel, upon condition that they be allowed to convert the bonds to bonds bearing lower rates of interest, provided, that the City shall receive no less and pay no more than it would receive and pay if the bonds were not converted, said conversion to be in substantial accordance with the Universal Bond Values Tables and subject to the approval of the City Council; and

WHEREAS, the buyers have elected to exercise the right to convert the bonds and have converted them to $175,500 in bonds bearing interest and maturing as hereinafter set out, and have exhibited computations which show that the cost of maturing the bonds after conversion is $160.62 less than the cost of maturing the bonds according to the original schedule, and the buyers are now ready to accept the bonds when the City can legally deliver them; now, therefore,

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

SECTION 1. The City Council hereby determines and declares that there is immediate need for the extensions and improvements to the water and dewer systems, and that it is to the best interests of the City to proceed under its contract with E. L. Villareal & Co. Inc. of Little Rock, Arkansas, and to issue the proposed bonds.

SECTION 2. A brief and general description of the proposed improvements is as follows: For the sewer system -- interceptor sewers, pump station, force main, and stabilization ponds; for the water system -- pump controls, transmission lines, and a 200,000-gallon reservoir. (All of these improvements are sometimes hereinafter referred to as the "System.") The City Council hereby determines to proceed with the construction of the works in accordance with the plans and specifications prepared therefor and on file with the City Recorder.

SECTION 3. The City Council hereby finds that the reasonable period of usefulness of the system in the City is forty years, which will extend beyond the last maturity of the proposed bond issue; that the price at which bonds are sold is a fair price and one that is allowed by law; and that by the conversion the City will receive no less and pay no more than it would receive and pay if the bonds were not converted. Therefore, both the sale of the bonds and their conversion to lower interest rates are approved and confirmed.

SECTION 4. By Section 6 of ordinance no. 247, adopted and approved March 2, 1954, the City Council established the rates to be charged for the services rendered by the municipal waterworks, and said schedule of rates is hereby confirmed.

SECTION 5. By ordinance no. 257, passed and approved August 7, 1962, the City Council established the rates to be charged for the services rendered by the municipal sewer system, and it finds and declares that such rates as so established, together with the charges made for the water services, will produce sufficient revenue, and said rates shall never be reduced below a rate sufficient (with the water rates) to provide for the maintenance, operation and depreciation of the System and leave a net revenue of at least 150% of the average annual requirements of all bonds then outstanding, and shall if necessary be increased to provide for such bond coverage. A copy of the rate shedules shall at all times be kept on file in the office of the water superintendent and of the City Recorder, and shall be subject to inspection by all interested persons.

SECTION 6. (a) Under the authority of the general statutes of the State of Arkansas, and particularly Acts No. 131 and 132 of the General Assembly of the State of Arkansas for the year 1933, as amended (sometimes hereinafter termed "Acts Nos. 131 and 132, as amended"), Water and Sewer Refunding and Improvement Revenue Bonds be issued in the total amount of $175,500, the proceeds of the sale of which shall be used to refund valid outstanding bonds and to pay the cost of the works, including engineering and legal fees, interest on the bonds during theperiod of construction and for six months

after the completion thereof, and other necessary expenses; that said bonds be designated "City of Atkins, Arkansas,____% water and sewer refunding and improvement revenue bond," be dated as of June 1, 1962; be numbered from 1 to 176, both inclusive; be sometimes hereinafter referred to as "bonds", be in the denomination of $1000 each except Bond no. 11 which is in the denomination of $500; be callable as hereinafter set forth; and mature in numerical order on December 1 of each year as follows:

YEAR	BOND NOS. (both inclusive)	AMOUNT
1963	1 to 5	$ 5,000
1964	6 to 11	5,500
1965	12 to 17	6,000
1966	18 to 23	6,000
1967	24 to 29	6,000
1968	30 to 36	7,000
1969	37 to 43	7,000
1970	44 to 50	7,000
1971	51 to 57	7,000
1972	58 to 65	8,000
1973	66 to 74	9,000
1974	75 to 83	9,000
1975	84 to 92	9,000
1976	93 to 101	9,000
1977	102 to 110	9,000
1978	111 to 119	9,000
1979	120 to 130	11,000
1980	131 to 141	11,000
1981	142 to 152	11,000
1982	153 to 164	12,000
1983	165 to 176	12,000

(b) The bonds shall bear interest payable semi-annually on June 1 and December 1 of each year at the following rates per annum Nos. 1 to 11, inclusive, at 2 3/4%; Nos 12 to 29, inclusive, at 3%; Nos 30 to 65, inclusive, at 3 1/2%; Nos 66 to 110, inclusive, at 3/4%; and Nos. 111 to 176, inclusive at 4%. The bonds shall be signed by the Mayor and City Recorder and sealed with the corporate seal of the City. The interest upon the bonds shall be evidenced by coupons attached thereto, the coupons to be signed by said Mayor by his facsimile signature, and the Mayor shall by the execution of the bonds adopt as and for his own proper signature his facismile signature appearing on said coupons. The buyers shall have the right to name the Trustee and the paying agent at whose office the bonds shall be payable in any coin or currency which on the date of payment is legal tender for payment of debts due the United States of America.

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

SECTION 7. 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 and sewer refunding and improvement revenue bond

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 bearer, the sum of_____DOLLARS on the first day of Dec. 19___, with interest thereon at the rate of_____per centum (____%) per annum from date until paid, payable on Dec. 1, 1962, and semi-annually thereafter upon presentation and surrender of the annexed coupons as they severally become due. Both principal hereof and interest hereon shall be payable in any coin or currency which on the date of payment is legal tender for payment of debts due the United States of America, at the office of_____.

This bond is one of a series of bonds aggregating One Hundred Seventy-five Thousand Five Hundred Dollars ($175,500), all of like tenor and effect except as to number, denomination, interest rate, and maturity, numbered from 1 to 176, both inclusive, and issued for the purpose of refunding valid outstanding bonded indebtedness and improving the existing municipal waterworks and sewer system (The waterworks and sewer systems will be hereinafter collectively 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 Acts Nos. 131 and 132 of the Acts of the General Assemby of the State of Arkansas

for the year 1933, as amended, and do not constitute an indebtendess of the City of Atkins within any constiutuional or statutory limitation. Said bonds are payable solely from a fixed amount of the revenues from the System, which amount shall be sufficient to pay the principal of and 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 and Sewer Refunding and Improvement Revenue Bond Fund," created by the ordinance by which this bond is authorized to be issued, and the said City of Atkins has fixed and has covenanted and agreed to maintain rates for water and sewer 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 interest on and principal of the bonds of this issue as the same become 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 construction thereof.

The bonds of this issue are callabel for payment prior to maturity at par and accrued interest in inverse numerical order, as follows: From surplus revenues derived from operation at 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 June 1, 1967. 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, and after 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 conditions, acts and things required to exist, to be performed and to happen precedent to and in the issuance of this bond do exist, have been performed, and have happened in due time, form and manner as required by law, and that a sufficient amount of the income and revenues deemed to be derived from the operation of said system has been pledged to and will be set asisde into said special fund for the payment of the principl 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_____.

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 hereto attached to be executed by the facismile signature of said Mayor, all as of the 1st day of June, 1962.

CITY OF ATKINS, ARKANSAS BY_____
E. M. Austin, Mayor

(SEAL) ATTEST: _____
CITY RECORDER

(Form of Coupon

NO._____ $_____

On the first day of June, 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 any coin or currency which on said date is legal tender for payment of debts due the United States of America, solely out of the fund specified in the bond to which this coupon appertains, at the office of_____, being interest then due on its water and sewer refunding and improvement revenue bond dated June 1, 1962, and numbered_____.

CITY OF ATKINS, ARKANSAS

BY_____
MAYOR

(All coupons shall be for six 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:

This is one of the 176 bonds agregating $175,500 described within.

_____Trustee

BY_____
AUTHORIZED OFFICER

_____, Arkansas
_____, 1962.

SECTION 8. Water and Sewer 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 and Sewer 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 9. Water and Sewer Operation and Maintenance Fund.

(a) There shall be paid from the water and sewer fund into a fund which is hereby created and designated "Water and Sewer Operation And Maintenance Fund" (hereinafter sometimes called "Operation Fund"). 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 upo on 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.

(b) Any surplus accumulated in the operation fund over and above the amount which shall be necessary to defray the cost of maintaining, repairing, and operating the system during the remainder of the then current fiscal year and the next ensuing fiscal year may be transferred to and paid into the water and sewer depreciation fund or into the Water and Sewer Refunding and Improvement Revenue Bond Fund; provided, however, that such transfer or payment into said Bond Fund shall be in addition to all other payments hereinafter required to be made into said fund.

SECTION 10. Water and Sewer Refunding and 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 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 and Sewer Refunding and Improvement Revenue Bond Fund" (sometimes hereinafter referred to as the "Bond 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 Bond 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 becoming due on the next succeeding principal payment date plus the sum of $167, until a reserve of $10,000.00 has been accumulated.

Provided, however, that no further payments need be made into said Bond Fund after and so long as such amount of the bonds shall have been retired that the amount then held in such Bond 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 the bonds than remaining outstanding.

The undertaking to transfer and pay the prescribed amounts from said water and sewer fund into said bond 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 Bond Fund.

(b) Said Bond Fund shall be used solely and only and is hereby pledged for the purpose of paying the interest on and principal of the bonds herein authorized. It shall be the duty of the City to deliver semi-annual payment of interest or annual payment of principal, a check or voucher drawn on the Bond Fund, to be used to meet the payment then due, together with the paying charges hereinafter set out.

(c) The reserve of $10,000 to be accumulated in the Bond Fund as hereinabove provided shall be designated "Reserve Fund," and whenever withdrawals are made from said Reserve Fund so as to reduce the balance therein to less than $10,000, the extra payments of $167 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 $10,000. The funds in said reserve fund shall be held by the City as a trust account, 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 bond fund are insufficient for that purpose or for meeting special and unforeseen emergencies or repair 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 available.

SECTION 11. Water and Sewer Depreciation Fund. There shall be paid from the water and sewer fund into a fund which is hereby created and designated "Water and Sewer 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 solely 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 in the judgment of the City is not needed for replacement, such surplus or excess may be transferred and paid into the Bond Fund; provided, however, that such transfer or payment into the Bond Fund shall be in addition to all other payments herein required to be made into said Fund.

SECTION 12. The revenue from the System which remains after making full provision for the funds hereinabove established, including the $10,000 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 13. 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 to the decision of the Supreme Court of Arkansas cited as City of Harrigan V. Braswell, 209 Ark. 1094, 194 SW (2d) 12, and that said statutory lien shall not be asserted or enforced so as to result in a foreclosure or sale of said statutory mortgage lien shall be 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 14. Nothing in this ordinance shall be construed to prevent the issuance by the City of additional bonds to finance or pay the cost of constructing 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 th gross revenues derived from the system for the fiscal year 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 on all bonds then outstanding and the fiscal agency charges therefore; and (b) one average year's principal and interest payment of such proposed additional bonds. Provided, further, that no water and sewer revenue bonds shall be issued having a lien on water and sewer 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 15. The mayor and city recorder are hereby authorized and directed to execute the bonds and deliver them to the buyers upon payment of the full purchase price and accrued interest. The money received for accrued interest shall be paid into the Bond Fund. The sum of $21,500 plus interest that will accrue by Jan. 1, 1963, and paying charges, shall be escrowed with the First National Bank in Little Rock, Little Rock, Arkansas, for the purpose of paying principal and interest of the outstanding balance of the City's bond issue dated March 1, 1954. 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. 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 FDIC, 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 workds, such balance shall be immediately transferred to the bond fund.

SECTION 16. The City Council shall also serve as a City Board of Health, with power to ascertain whether improved and occupied property which is not connected with the sewer system, but can be served thereby, has adequate sanitary facilities so that the public health is not impaired because of the failure to connect said property to the sewer system.

SECTION 17. Each owner of improved property which lies within the area that can now be served or can be served after the completion of the improvements to the sewer system is hereby directed and required to connect all toilet and waste water facilities of such improved property with said sewer system within six months after the service is available, and each owner of property that is improved after the completion of the improvements to the sewer system and can be served thereby shall connect the toilet and waste water facilities of such property with the sewer system within three months, subject to the requirement of an earlier connection of the failure to connect constitutes a threat to public health.

SECTION 18. In the event the City Council, proceeding as the City Board of Health, shall find that any improved and occupied property not connected with the sewer system does not have adequate sanitary sewage disposal facilities and that thereby the public health

is impaired or threatened, it shall send a written notice to the owner of such property, if it can be served by the sewer system, to connect said property to said system within thirty days from the date of said notice. Any property owner who fils or refuses to connect his improved property with the sewer system after being notified to do so shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than $2.00 and not exceeding $10.00, and each day's failure or refusal after expireation of the time fixed in the notice to make the connection shall be a separate offense. Provided, nothing is in this ordinance shall be so construed as to compel the building of a sewer line by one porperty owner over the property of another, or for a greater distance for his property through or into any street or alley than three hundred (300) feet to a place where a connection can be made to the sewer system.

SECTION 19. The terms "City and "Bond Fund" as used in this section shall mean, respectively, the incorporated town or the city issuing the bonds and the fund provided by this ordinance for the payment of the bonds.

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 by the System, the reasonable value of the services and falcities so 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 shall be deemed to be revenues derived from the 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 itslef 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 continously in force, and either the original policies of insurance shall be placed in the custody of the Trustee or the Trustees shall be furnished evidence satisfactory to it that the policies have been issued and carry the loss payable to the Trustee clause.

In such event, the City will, with reasonable promptness, cause to be commenced and completed the reconstruction, replacement, or repair of the System. In the event of loss, the proceeds of such insurance are to be applied solely toward the reconstruction, replacement, or repair of the System. 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 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 $5,000 and shall be approved by the Trustee.

(d) The system shall be operated upon a fiscal year basis, beginning January 1 of each year and ending and including the following December 31.

(e) 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, except as herein provided, and will not sell, lease, or otherwise dispose of any substantial portion of the same. The obligations of the City set out in this ordinance,, the pledge of revenues, and the City's agreement not to mortgage, pledge,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.

(f) All revenues from the System shall be deposited in such depository 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 such depository 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.

(g) 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 the revenues pledged to said Fund, which Fund is hereby pledged for the equal and ratable payment of the Bonds and shall be used for no other puspose than to pay the principal and interest of the Bonds as the same matue, except as provided in this ordinance.

(h) 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 statues 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 created.

(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 transactions relating to the System. The City agrees to have these records audited by an independant certified public accountant at least once each year, and it shall furnish the Trustee a copy of thi 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 of or the interest on any of the Bonds, the holder or holders thereof may enforce any mortgage lien granted by statute and may by proper suit compel the performance of the duties of the officials of the City, as set forth in the statutes authorizing the Bonds. If there be default in the payment of the principal of or interest on the Bonds or if the 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 the Trustee on behalf of all the 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 the payment of the operating expenses, and to apply the income and revenues in conformity with said statues and thisordinance 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 Bond 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 enforce the pledge lien herein granted. The failrue to exercise this option upon any default shall not be a waiver of the right toexercise it upon any subsequent default.

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

(m) 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, togather with all unmatured coupons appertaining thereto, shall 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 thereof.

(n) The charges for paying Bonds and interest coupons shall be 1/8 of 1% on principal and 5¢ per coupon; provided, the minimum fee for any semi-annual payment shall be $5,00. No withdrawal from the Bond Fund shall be made for any purpose other that payment of bonds and interest, and the montly deposits in the 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.

(o) Wherever reference is made in this ordinance to a Trustee, it shall refer to the bank or trust company named by the buyers to serve in that capacity. The said Trustee shall be responsible only for wilful 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 certificater, 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, nor 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 anh default of the City in the failure to perform any of the conditions of this ordinance 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, or some of them, against loss or damage on account thereof. The Trustee is authorized in its discretion 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 may appoint a successor trustee for one either removed ore resigned, by an instrument duly acknowledged and filed for record in the office of the Circuit Clerk and ex-officio Recorder of the resigned, by an instrument duly acknowledged and filed for record in the office of the Circuit Clerk and ex-officio Recorder of Pope County. The Trustee may resign at any time upon ten days' written notice to the City Recorder. The sucessor trustee shall have all the rights and powers of the originally appointed Trustee.

(p) 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 invlaid, it shall not affect the validity of the remainder of the ordinance.

(q) 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 coupons issued by authority hereof; and after the Bonds have been issued and paid for, the terms of said provisions shall not be changed except with the written consent of the holders of all Bonds and coupons then outstanding.

SECTION 20. The Mayor and City Recorder are 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 them, in substantially the following form:

NOTICE

Notice is hereby given that the City Council of Atkins, Arkansas, has adopted the ordinance hereinafter set out; that the City contemplates the issuance of the bonds described in said ordinance; and that any person interested may appear before the Council on the 11th day of September, 1962, at 7:30 o'clock P.M. at the usual place of the meeting of the Council in Atkins, Arkansas, and present protests . At such hearing all objections and suggestions will be heard and the said Council will take such action as it deems proper in the premises.

DATED this 7th day of August, 1962.

_____
Mayor of Atkins, Arkansas

ATTEST:

_____
City recorder

SECTION 21. 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: Aug. 7, 1962

APPROVED: _____
E. M. Austin, Mayor

(SEAL)
ATTEST:

_____
Everett Ewell, City Recorder

C E R T I F I C A T E

I, the undersigned Recorder of theCity 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 said Council were present and voted for said ordinance, which is now of record in Book 4, page 68-97 of the records of said City.

CERTIFIED under my hand and the seal of said City, this 7th day of August, 1962.

EVERETT EWELL, City Recorder

(SEAL)