ORDINANCE NO. 90- 11

AN ORDINANCE CALLING A SPECIAL ELECTION IN ATKINS, ARKANSAS ON THE QUESTION OF LEVYING A 1% SALES AND USE TAX PURSUANT TO ARKANSAS CODE ANNOTATED SEC. 14-164-338, FOR THE PURPOSE OF FINANCING CAPITAL IMPROVEMENTS OF A PUBLIC NATURE INCLUDING THE CONSTRUCTION AND EQUIPPING OF A CITY HALL AND POLICE FACILITIES AND PARKING FACILITIES FOR THE SAME, AND CONSTRUCTION AND PAVING OF STREETS, ROADS, DRAINAGE *FACILITIES AND SIDEWALKS* SETTING AN EXPIRATION DATE FOR THE 1% SALES AND USE TAX; AND PRESCRIBING OTHER MATTERS PERTAINING THERETO.

WHEREAS, the city council of the City of Atkins, Arkansas (the "city") had determined that it would be in the best interests of the city to construct and equip a city hall and police facilities and parking facilities for the same, and to construct and pave streets, roads, drainage *facilities and sidewalks; and*

WHEREAS, the city council has determined that the cost of the improvements, including incidental expenses and expenditures in connection with accomplishing the improvements, can be financed by levying a temporary one percent (1%) Sales and Use Tax (the "Tax") and applying the proceeds to pay for the improvements; and

WHEREAS, the Sales and Use Tax can be levied under the provisions of Ark. Code Ann. Sec. 14-164-338; and

WHEREAS, the enactment of Ark. Code Ann. Sec. 14-164-338 as amended has made it possible to levy the Tax without issuing bonded indebtedness, so long as the Tax is collected for no more than 24 months; and

WHEREAS, the city can pay the cost of the improvements from the proceeds of a city one percent (1%) Sales and Use Tax to be levied under the authority of Ark. Code Ann. Sec. 14-164-338, which levy shall terminate automatically when sufficient funds are collected to pay for the improvements, or 24 months from the date it becomes effective, whichever occurs earlier; and

WHEREAS, the purpose of this Ordinance is to submit to the electors of the city the question of levying a local Sales and Use Tax pursuant to Ark. Code Ann. Sec. 14-164-338 to be levied at the rate of one percent (1%) on the receipts from sales at retail within the city of all items which are subject to taxation under the Arkansas Gross Receipts Tax Act of 1941, as amended, and on the receipts from storing,

using or consuming within the city tangible personal property under the Arkansas Compensating Tax Act of 1949, as amended, at a special election called for that purpose:

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

"SECTION 1. That there be, and there is hereby called, a special election to be held on November 6, 1990, at which election there shall be submitted to the electors of the city, the question of levying, for a period of no longer than twenty-four (24) months, a city one percent (1%) Sales and Use Tax (the "Tax") under Ark. Code Ann. Sec. 14-164-338 to finance the cost of constructing and equipping of a city hall and police facilities, and parking facilities for the same and and for constructing and paving streets, roads, drainage facilities *and sidewalks;*

The Tax shall terminate at the end of the month subsequent to the month during which it has produced $ 220,000 exclusive of interest, for the city, or twenty-four (24) months from the date the Tax becomes effective, whichever occurs earlier. Any surplus remaining after the payment of the cost of the stated improvements shall be used for capital improvements of a public nature as defined in ACA Sec. 26-75-303."

"Section 2. The levy of the Tax shall not become effective until after the special election called in Section 1 above has been held and the levy of the Tax is approved by the voters. The Tax shall be levied and collected only to a maximum tax of $25 for each single transaction."

"Section 3. That the question of levying the Tax shall be placed on the ballot for the election in substantially the following form:

ONE PERCENT (1%) SALES AND USE TAX
FOR CONSTRUCTING AND EQUIPPING OF CITY HALL
AND POLICE FACILITIES AND PARKING FACILITIES FOR THE SAME

On the question of a levy, for a period not to exceed twenty-four (24) months, of a one percent (1%) Sales and Use Tax for the purpose of:

Constructing and Equipping of City Hall and Police Facilities and Parking Facilities for the Same

with the tax revenues for such improvements not to exceed $ 40,000 , exclusive of interest.

FOR..... ( )
AGAINST.....( )

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ONE PERCENT SALES AND USE TAX FOR
CONSTRUCTING AND PAVING OF STREETS, ROADS
DRAINAGE FACILITIES *AND SIDEWALKS*

On the question of a levy, for a period not to exceed twenty-four (24) months, of a one percent (1%) Sales and Use Tax for the purpose of

Constructing and paving of Streets, Roads, Drainage Facilities *AND SIDEWALKS*

with the tax revenues for such improvements not to exceed $ 180,000 , exclusive of interest.

FOR..... ( )
AGAINST..... ( )

The Sales and Use Tax will be levied under the provisions of Ark. Code Ann. Sec. 14-164-338. The Tax will be collected solely to pay the costs of the improvements. Such levy shall terminate automatically at the end of the month subsequent to the month during which the Tax has produced $ 180,000 , exclusive of interest, for the city, or 24 months from the date the Tax becomes effective, whichever occurs earlier. Any surplus remaining after the payment of the costs of the stated improvements shall be used for capital improvements of a public nature as defined in ACA Sec. 26-75-303. It has been determined that the cost of the improvements can be financed by the levy of the Tax for no more than 24 months. The voters are being asked to approve or disapprove each of the improvements separately, but only one tax will be levied. In the event that only one of the improvements is approved, the Tax shall be terminated when funds sufficient to pay for the approved improvements have been collected, but, in any event such Tax shall terminate automatically 24 months from the date it becomes effective.

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"Section 4. That 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 such elections in Ark. Code Ann. Sec. 14-164-301 et. seq., and only qualified voters of the city shall have the right to vote at the election."

"Section 5. That the results of the election shall be proclaimed by the mayor, and his proclamation shall be published one time in a newspaper published in the city and having a bona fide circulation therein, which proclamation shall advise that the results as proclaimed shall be conclusive unless challenged in the courts within thirty (30) days after the date of publication."

"Section 6. That 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 shall also be provided to the Commissioner of Revenues of the State of Arkansas as soon as practical."

"Section 7. That the mayor and city clerk, for and on behalf of the city, be, and they 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 Tax is approved by the electors, to cause the Tax to be collected in accordance with Ark Code Ann. Sec. 14-164-301 et. seq., and to perform all acts of whatever nature necessary to carry out the authority conferred by this Ordinance."

"Section 8. That the funds for the constructing and equipping of a City Hall and Police Facilities and Parking Facilities for the same and constructing and paving of Streets, Roads, *Drainage Facilities and Sidewalks referred to in this* Ordinance shall be subject to appropriation by City Council. In the event the electors of Pope County, Arkansas vote in favor of and adopt a 1% County Sales and Use Tax to be in effect during the time that the local 1% Sales and Use Tax proposed in this Ordinance is in effect, then the local 1% Sales and Use Tax proposed in this ordinance for Atkins shall terminate on the effective date of the Pope County Ordinance imposing the 1% Sales and Use Tax in Pope County."

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

"Section 10. It is hereby found and determined by the city council of Atkins, Arkansas, that there is an immediate and pressing need to finance capital improvements without incurring unnecessary bond issue expenses; that this Ordinance is necessary to provide for an election on the issue of levying a sales tax without issuing bonds; that this Ordinance should be given effect immediately in order to provide for a timely election and thereby minimize finance costs. Therefore, an emergency is hereby declared to exist, and this Ordinance being necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

PASSED AND APPROVED the 18th day of September, 1990.

ATTEST:

STEPHEN KENT, Mayor

BRENDA GRAVES, City Clerk