

ORDINANCE NO. 1371

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF \$1,750,000 PRINCIPAL AMOUNT OF STREET IMPROVEMENT STATE GASOLINE TAX ANTICIPATION WARRANTS, SERIES 1973A, OF THE CITY OF PRICHARD, ALABAMA

BE IT ORDAINED by the City Council of the City of Prichard, Alabama, as follows:

Section 1. Definitions and Use of Phrases.

(a) Definitions. The following words and phrases, in the absence of clear implication herein otherwise, shall be given the following respective interpretations where used in this ordinance:

"Act No. 224" means Act No. 224 adopted at the 1967 Special Session of the Legislature of Alabama, as amended.

"Act No. 476" means Act No. 476 adopted at the 1967 Regular Session of the Legislature of Alabama.

"Additional Parity Securities" means any securities which the City may at the time of issuance be authorized to issue and for the payment of the principal of and interest on which the City's Share of the State Gasoline Tax may be pledged under the reserved right so to do contained in and in accordance with the provisions of Section 11 hereof.

"Annual Debt Service Requirement" means the amount of principal and interest having a stated maturity during a Fiscal Year.

"Called Warrant" means a Warrant that has been duly called for redemption pursuant to the provisions of Section 4(a) hereof.

"City" means the municipal corporation of Prichard in the State of Alabama and includes its successors and assigns and any municipal corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party.

"City Clerk" means the city clerk of the City.

"City's Share of the State Gasoline Tax" means that portion of the state gasoline tax that may be apportioned to and received by the City pursuant to the provisions of Act No. 224 and Act No. 476, or the provisions of any other statute.

"City Treasurer" means the city treasurer of the City.

"Construction Account" means the 1973A Street Improvement Construction Account created in Section 17 hereof.

"Council" means the governing body of the City as from time to time constituted.

"County" means Mobile County, Alabama.

"County Distributed Portion of the City's Share of the State Gasoline Tax" means that portion of the City's Share of the State Gasoline Tax that is distributed initially to the County under clause (b) of Section 5 of Act No. 224, and that is in turn distributed to the City by the County Treasurer pursuant to Act No. 476.

"County Treasurer" means the treasurer of Mobile County, Alabama, and any successor officer, department or agency that may succeed to the functions of the said treasurer.

"Coupons" means the interest coupons provided for herein which evidence the interest on the Warrants.

"Financial Journal" means a journal devoted primarily to news of financial matters and having general circulation among those interested in financial matters.

"Fiscal Year" means a fiscal year of the City beginning on any October 1 and ending on the next ensuing September 30.

"Holder", when used in conjunction with any of the Warrants or the Coupons, means the person who is in possession and the apparent owner of the designated item.

"Interest Payment Date" means any May 15 or November 15 during the period beginning May 15, 1974, and continuing until and including November 15, 1998.

"Mayor" means the mayor of the City.

"Month" means a calendar month.

"Newspaper" means a journal or newspaper printed in the English language and customarily published not less than five days during each calendar week.

"Outstanding Short-Term Warrants" means the Street Improvement State Gasoline Tax Anticipation Warrants of the City dated November 8, 1973, numbered 1 and 2, and aggregating \$1,750,000 in principal amount, which were issued pursuant to authorization in Ordinance No. 1367 of the City adopted November 1, 1973.

"Parity Securities" means the Warrants and any Additional Parity Securities that may hereafter be issued pursuant to the provisions of Section 11 hereof.

"Pledged Tax Proceeds" means that portion of the City's Share of the State Gasoline Tax that is provided in Section 7 hereof to be paid into the Special Fund.

"Projected Street Improvements" means the work of improvement of public streets in the City that is referred to in paragraph (a) of Section 2 hereof and that is provided for in the plans and specifications by Polyengineering, Inc., that are referred to in paragraph (c) of the said Section 2.

"Redemption Date" means the date fixed for redemption of any of the Warrants in a Resolution adopted pursuant to the provisions of Section 4(a) hereof.

"Redemption Price" means the price at which a Warrant called for redemption may be redeemed.

"Resolution" means a resolution duly adopted by the Council.

"Special Fund" means the 1973A State Gasoline Tax Anticipation Warrant Fund created in Section 7 hereof.

"State Distributed Portion of the City's Share of the State Gasoline Tax" means that portion of the City's Share of the State Gasoline Tax that is distributed directly to the City by the State Treasurer under clause (a) of Section 5 of Act No. 224.

"State Gasoline Tax" means (a) the excise tax levied under Section 647 of Title 51 of the Code of Alabama of 1940, as amended, exclusive of those portions of the said tax in respect of aviation fuel and marine gasoline, as those terms are used in the said Section 647, and (b) the excise tax levied by Act No. 674 adopted at the 1961 Regular Session of the Legislature, as amended, exclusive of that portion of the said tax in respect of diesel fuel; and any substitute for said taxes and any taxes levied in lieu thereof.

"State Treasurer" means the State Treasurer of the State of Alabama and any successor officer, department or agency that may succeed to the functions of the said treasurer.

"Trustee" means the trustee at the time designated and acting as such pursuant to the provisions of Section 9 hereof.

"Underlying Warrant Ordinance" means Ordinance No. 1342 of the City adopted February 28, 1973, and entitled "AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF \$1,200,000 PRINCIPAL AMOUNT OF STREET IMPROVEMENT STATE GASOLINE TAX ANTICIPATION WARRANTS, SERIES 1973, OF THE CITY OF PRICHARD, ALABAMA".

"Underlying Warrants" means the Street Improvement State Gasoline Tax Anticipation Warrants, Series 1973, of the City numbered 1 to 240, inclusive, and aggregating \$1,200,000 in principal amount, which were issued pursuant to authorization in the Underlying Warrant Ordinance.

"Warrants", without other qualifying language, means the Street Improvement State Gasoline Tax Anticipation Warrants, Series 1973A, herein authorized.

(b) Use of Phrases. The following words and phrases, where used in this ordinance, shall be given the following respective interpretations:

"Herein", "hereof", "hereunder", and other equivalent words refer to this ordinance and not solely to any particular portion hereof in which any such word is used.

The definitions set forth in subsection (a) of this section shall be deemed applicable whether the words defined are herein used in the singular or plural.

Wherever used herein any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

Section 2. Findings. The Council has ascertained and found and does hereby declare that the following facts are true and correct:

(a) Acting pursuant to authorization in Ordinance No. 1367 of the City adopted November 1, 1973, the City did on November 8, 1973, issue its Street Improvement State Gasoline Tax Anticipation Warrants dated November 8, 1973, numbered 1 and 2, aggregating \$1,750,000 in principal amount, and due sixty days after their date, for the purpose of paying costs of certain

work of improvement of public streets and other public ways in the City, including primarily street improvements designed for drainage of the said public streets and other public ways, including construction of storm water sewers, culverts, bridges, concrete ditches and appurtenant facilities, all designed to effectuate adequate and proper drainage of public streets and other public ways in the City;

(b) No part of the principal of or interest on the Outstanding Short-Term Warrants has been paid and each of the Short-Term Warrants is presently outstanding and unpaid; each of the Outstanding Short-Term Warrants was duly executed and the seal of the City was affixed thereto and attested in the manner provided by the said Ordinance No. 1342 and the laws of Alabama; the Outstanding Short-Term Warrants constitute valid limited obligations of the City which are payable solely out of the City's Share of the State Gasoline Tax and against which there are no offsets or counterclaims; and it will be advantageous to the City and to its citizens and taxpayers for the Outstanding Short-Term Warrants to be refunded by the issuance of the Warrants hereinafter authorized, which mature over a period of twenty-five years;

(c) The City has caused plans and specifications for construction of the Projected Street Improvements to be prepared by Polyengineering, Inc., of Mobile, Alabama, who are consulting engineers for the City in respect of the Projected Street Improvements; the cost of the Projected Street Improvements, as presently estimated by the Council, will be in excess of \$1,750,000; the useful life of the Projected Street Improvements, as estimated by the Council, will be in excess of twenty-five years; the City does not have available from its current funds moneys sufficient to pay the cost of the Projected Street Improvements; the Council has ascertained that the most practicable method of financing the construction of the Projected Street Improvements is by anticipation of the proceeds which will be received by the City in the future from the State Gasoline Tax; and that in order to refund the principal of the Outstanding Short-Term Warrants, thus providing for the definitive long-term financing of the Projected Street Improvements, it will be necessary that the City anticipate its receipt of the City's Share of the State Gasoline Tax by the issuance of the Warrants of the City hereinafter authorized, payable in installments in the future in the manner hereinafter provided;

(d) During the Fiscal Year that ended September 30, 1973, the City received from the State Treasurer and the County Treasurer, as the City's Share of the State Gasoline Tax, the sum of \$384,574.34.

an amount greater than the maximum Annual Debt Service Requirement with respect to the Underlying Warrants and the Warrants; the Council estimates, therefore, that the aggregate amount which will be received by the City as the City's Share of the State Gasoline Tax during each Fiscal Year until and including the Fiscal Year ending September 30, 1998 (after making provision for payment at their respective maturities of the principal of and interest on the Underlying Warrants at the respective maturities of the said principal and interest in the manner specified in the Underlying Warrant Ordinance), will be sufficient to pay at their respective maturities the principal of and interest on the Warrants; and

(e) It is necessary, desirable and advantageous to the City and its inhabitants that the City sell and issue the Warrants hereinafter authorized in order to refund the Outstanding Short-Term Warrants.

Section 3. Authorization of the Warrants. Pursuant to the applicable provisions of the constitution and laws of the State of Alabama, including particularly Section 466 of Title 37 of the Code of Alabama of 1940, and Act No. 531 adopted at the 1953 Regular Session of the Legislature of Alabama, as amended, and for the purpose of refunding the Outstanding Short-Term Warrants, there are hereby authorized to be issued by the City three hundred fifty (350) Street Improvement State Gasoline Tax Anticipation Warrants, Series 1973A, of the City in the aggregate principal amount of \$1,750,000, which shall be in the denomination of \$5,000 each, shall be dated November 15, 1973, and shall mature on November 15 as follows:

<u>Warrant Numbers</u> <u>(Both inclusive)</u>	<u>Year of</u> <u>Maturity</u>	<u>Aggregate Principal</u> <u>Amount Maturing</u>
1 to 26	1989	\$130,000
27 to 54	1990	140,000
55 to 83	1991	145,000
84 to 114	1992	155,000
115 to 147	1993	165,000
148 to 183	1994	180,000
184 to 221	1995	190,000
222 to 261	1996	200,000
262 to 304	1997	215,000
305 to 350	1998	230,000

The Warrants shall bear interest from their date until their respective maturities at the rate of 6-3/4% per annum. The said interest shall be payable semiannually on May 15 and November 15 of each year until and at the respective maturities of the Warrants and shall be evidenced by separate interest coupons attached thereto. The Warrants and the Coupons applicable thereto shall bear interest at the rate of 8% per annum after their respective maturities until paid. The Warrants shall be payable in lawful money of the United States of America at the principal office of The Merchants National Bank of Mobile in the City of Mobile in the State of Alabama.

Section 4. Optional Redemption Provisions. The Warrants are subject to redemption and payment by the City at its option, on November 15, 1983, and on any Interest Payment Date thereafter, at a Redemption Price for each Warrant redeemed equal to its face value plus a redemption premium equal to twelve months' interest thereon computed at its coupon rate. Any such redemption may be made as a whole or in part of the Warrants then outstanding and, if in part, such redemption shall be accomplished in the inverse numerical order of those of the Warrants at the time outstanding. Any such redemption shall be effected in the following manner:

(a) The City shall by Resolution adopted by the Council call for redemption on a stated Interest Payment Date when they are by their terms subject to redemption Warrants bearing stated numbers, and shall recite in said Resolution (i) that the City is not at the time in default in the payment of the principal of or interest on any of the Warrants, or (ii) that all of the Warrants then outstanding are to be retired on the Redemption Date.

(b) The City shall cause to be published at least one time in both a Newspaper published in the City of Birmingham, Alabama, and a Financial Journal published in the City of New York, New York, a notice stating the numbers of the Warrants so called for redemption, and stating that the Warrants bearing such numbers will become due and payable on a specified date [which shall be the Redemption Date fixed by Resolution adopted pursuant to the provisions of paragraph (a) of this section] at the Redemption Price (which shall be specified in said notice), and that all interest on the Called Warrants will cease after the Redemption Date. Any such notice shall be published not less than thirty days prior to the Redemption Date. In the event that no Newspaper is being published in the said City of Birmingham at the time that the City directs that the said notice be published, then publication thereof in a Financial Journal published in the said City of New York will suffice to meet the requirements of this paragraph (b); and if no Financial Journal is being published in the said City of New York at the time the City directs that the said notice be published, then publication thereof in a Newspaper published in the said City of Birmingham will suffice to meet the requirements of this paragraph (b).

(c) On or prior to the Redemption Date the City shall notify the bank at which the Warrants are payable of the City's compliance with the requirements of paragraphs (a) and (b) of this section, and shall make available at the said bank the total Redemption Price of the Called Warrants.

Upon compliance with the foregoing requirements on its part contained in this section, and if the City is not on the Redemption Date in default in the payment of the principal

of or interest on any of the Warrants, the Called Warrants shall become due and payable on the Redemption Date, and interest thereon shall thereafter cease. The bank at which the Called Warrants are payable shall not be required to pay any Coupon maturing on the Redemption Date which is applicable to any Called Warrant unless the Called Warrant to which such Coupon is applicable is also presented for payment; provided, that in the event the said bank should pay any such Coupon without payment of the applicable Called Warrant, it shall not be liable to the Holder of such applicable Called Warrant or to the City or to anyone whomsoever; and provided, further, that the said bank shall pay such Coupon out of the moneys supplied to it by the City for such purpose if the Holder thereof shall present evidence satisfactory to the said bank that such Holder is the owner of the Coupon so presented and is not the owner of the Called Warrant to which such Coupon is applicable.

Section 5. Execution of the Warrants. Each of the Warrants shall be executed in the name and behalf of the City by the signature of its Mayor manually subscribed on each of the Warrants; the corporate seal of the City shall be impressed on each of the Warrants; and the City Clerk shall attest each of the Warrants by manually subscribing her signature thereon. The Coupons shall be executed with the facsimile signature of the Mayor and shall be attested with the facsimile signature of the City Clerk, whose facsimile signatures on the Coupons shall be valid in all respects as if their signatures had been manually subscribed thereon. The Warrants and the Coupons shall be registered by the City Treasurer, in the records maintained by the City Treasurer, as claims against the Special Fund hereinafter created and the City's Share of the State Gasoline Tax, which registration shall be made simultaneously with respect to all of the Warrants and the Coupons. The said officers are hereby directed so to execute, seal, attest and register the Warrants and the Coupons.

Section 6. Limited Obligation; General Faith and Credit Not Pledged. The obligation evidenced and ordered paid by the Warrants is a special limited obligation of the City payable solely from the Special Fund and the City's Share of the State Gasoline Tax herein ordered to be paid into the Special Fund. The general faith and credit of the City are not pledged for payment of the Warrants or the Coupons; and the Warrants and the Coupons are not, and shall not be, general obligations of the City. Neither this ordinance nor any of the Warrants or the Coupons issued hereunder shall be deemed to impose upon the City any obligation to pay the principal of or the interest on the Warrants, or any other sum, except with the moneys herein directed to be paid into the Special Fund. None of the agreements, representations or warranties made or implied in this ordinance, or in the issuance of the Warrants and the Coupons, shall ever impose any pecuniary liability upon the City, except with respect to the moneys herein directed to be paid into the Special Fund (the said moneys consisting of so much of the City's Share of the State Gasoline Tax as shall be sufficient to make the payments provided in Section 7 hereof to be made into the Special Fund). Nothing herein contained, however, shall be construed to relieve the City from the performance of any of its agreements herein contained or to relieve any of the officials of the City of any of their official duties.

Section 7. Special Fund for Payment of the Warrants. There is hereby established a special fund to be known as the "1973A State Gasoline Tax Anticipation Warrant Fund", for the purpose of providing for payment of the principal of and the interest on the Warrants and the annual fee of the Trustee with respect to the Special Fund. The Special Fund shall be maintained until both the principal of and the interest on the Warrants shall have been paid in full (or until full provision is made therefor) and shall be held by the Trustee for the purposes hereinafter set forth. The City shall from time to time pay or cause to be paid into the Special Fund, solely from the City's Share of the State Gasoline Tax, such amounts as shall be sufficient to provide for payment of the principal of and the interest on the Warrants at the respective maturities of the said principal and interest and the annual fee of the Trustee that will become payable on November 14 of each year, commencing with the year 1974, which amounts shall in no event be less than the following and shall be so paid into the Special Fund on or before the following dates:

(a) On or before the 15th day of December, 1973, and on or before the 15th day of each successive Month thereafter until and including April, 1974, an amount equal to the total of (i) one-fifth ($1/5$) of the semiannual installment of interest that will mature with respect to the Warrants on May 15, 1974, and (ii) one-tenth ($1/10$) of the annual fee of the Trustee that will be payable on November 14, 1974; provided, however, that there shall be credited one time on the amount provided to be paid into the Special Fund pursuant to the provisions of this subsection (a) an amount equal to the interest accrued on the Warrants from November 15, 1973, to the date of their delivery to the purchaser thereof;

(b) On or before the 15th day of May, 1974, and on or before the 15th day of each successive Month thereafter until and including October 15, 1988, an amount equal to the total of (i) one-sixth ($1/6$) of the semiannual installment of interest that will mature with respect to the then outstanding Warrants on the then next ensuing Interest Payment Date, and (ii) one-twelfth ($1/12$) of the annual fee of the Trustee that will be payable on the then next ensuing November 14; and

(c) On or before the 15th day of November, 1988, and on or before the 15th day of each succeeding Month thereafter until the principal of and the interest on the Warrants shall have been paid in full, an amount equal to the total of (i) one-sixth ($1/6$) of the semiannual installment of interest maturing with respect to the then outstanding Warrants on the then next ensuing Interest Payment Date, (ii) one-twelfth ($1/12$) of the principal of the Warrants that will mature on the then next ensuing November 15, and (iii) one-twelfth ($1/12$) of the annual fee of the Trustee that will be payable on the then next ensuing November 14.

In addition thereto, there shall also be paid into the Special Fund on or before the 15th day of each successive Month, commencing with January, 1974, and continuing until the principal of and the interest on all the Warrants and each annual fee of the Trustee shall have been paid in full, the following amounts, solely from the City's Share of the State Gasoline Tax: (1) the amount by which all payments made into the Special Fund during any preceding Month shall have been less than the amount herein required to be paid into the Special Fund during such preceding Month, (2) the amount of all sums theretofore paid into the Special Fund pursuant to this ordinance which shall have been lost or which are for any reason not immediately available for payment of said principal, interest and Trustee's fee, and (3) any additional sums which may be necessary to pay at their respective maturities the principal of and the interest on the Warrants and on each due date thereof the Trustee's fee payable on that date.

Section 8. Assignment and Pledge of Special Fund and Tax Proceeds Ordered Paid Therein. The Special Fund and all moneys at any time in or pertaining thereto, and the City's Share of the State Gasoline Tax, to the extent ordered paid into the Special Fund, are hereby assigned to and pledged with the Trustee therefor as security for payment of the principal of and the interest on the Warrants. Failure to pay, or cause to be paid, into the Special Fund, as received by, or available to, the City, that portion of the City's Share of the State Gasoline Tax that is herein required to be paid into the Special Fund shall constitute a diversion of the Pledged Tax Proceeds. Said assignment and pledge are made for the pro rata benefit of all the Warrants, without preference or priority of one Warrant over another by reason of prior issuance or otherwise, and shall be and remain prior to any assignment or pledge of all or part of the City's Share of the State Gasoline Tax that may hereafter be made for the benefit of any warrants or other securities of the City hereafter issued or any contract of the City hereafter made (except any parity pledge of the City's Share of the State Gasoline Tax that may be made for the benefit of Additional Parity Securities pursuant to the provisions of Section 11 hereof). The Special Fund shall constitute a trust fund, and the Trustee therefor is hereby authorized and directed to use so much of the moneys on deposit therein as may be necessary to pay the principal of and the interest on the Warrants as said principal and interest respectively become due.

The City represents

(a) that at the present time there are no outstanding agreements or pledges by the City with respect to the use by the City of the City's Share of the State Gasoline Tax except the agreements and pledges for the benefit of the Underlying Warrants that were made in the Underlying Warrant Ordinance; and specifically (without limiting the generality of the foregoing) that the City has at the present time no outstanding contracts or securities, other than the Underlying Warrants, that are payable out of, or secured by a pledge of, the City's Share of the State Gasoline Tax; and

(b) that at the time of the delivery of the Warrants there will be no outstanding agreement or pledge by the City with respect to the use by the City of the City's Share of the State Gasoline Tax except (1) the aforesaid agreements and pledges made in the Underlying Warrant Ordinance, and (2) the agreements and pledges contained herein; and specifically (without limiting the generality of the foregoing) that at the time of the issuance of the Warrants, the only then outstanding contracts or securities of the City that are payable out of, or secured by a pledge of, the City's Share of the State Gasoline Tax, will be (i) the Underlying Warrants and (ii) the Warrants.

The City hereby agrees that it will not issue any additional securities pursuant to the provisions of Section 11 of the Underlying Warrant Ordinance; and the City hereby irrevocably releases the privilege to issue any further securities of any kind under the provisions of the Underlying Warrant Ordinance.

Section 9. Trustee for Special Fund.

(a) Designation of Trustee; Its Fees Hereunder.

The Merchants National Bank of Mobile, a national banking association having its principal place of business in the City of Mobile, Alabama, is hereby designated as trustee for the Special Fund as a trust fund for the purposes hereinabove provided. The Trustee is authorized and directed to cancel and transmit to the City the Warrants and the Coupons as and when they are paid. If any moneys remain in the Special Fund following payment of all of the Warrants and the Coupons, such moneys shall thereupon be remitted by the Trustee to the City. The City will pay to the Trustee, promptly upon issuance of the Warrants, a Trustee's acceptance fee in the amount customarily charged by trustees in the State of Alabama for acting as trustees for funds similar to the Special Fund herein created; and thereafter the City will pay to the Trustee on November 14 of each successive year (commencing with November 14, 1974) while the Warrants remain unpaid, an annual Trustee's fee, each such fee to be in the amount that at the present time is customarily charged by trustees in the State of Alabama for acting as trustees for similar special funds; the amount of the said annual fee being as follows:

75¢ per \$1,000 on the first \$100,000 of principal of the Warrants outstanding on the then preceding November 15;

50¢ per \$1,000 for each \$100,000 of principal so outstanding in excess of \$100,000; and

A minimum annual fee of \$25.00.

Each such annual fee shall be paid out of the Special Fund. By acceptance of its duties hereunder, the Trustee shall be deemed to have agreed to the provisions of this ordinance in respect of the Special Fund and the Trustee and, without limiting the generality of the foregoing, shall be deemed to have agreed that its annual fee for its services as such trustee shall be in the amounts hereinabove provided.

(b) Trust Nature of and Security for the Special Fund. The Special Fund shall be and at all times remain public funds impressed with a trust for the purpose for which the Special Fund is herein created. The Trustee shall at all times keep the moneys on deposit in the Special Fund continuously secured for the benefit of the City and the Holders of the Warrants, either

(1) by holding on deposit, as collateral security, direct obligations of the United States of America or obligations the principal of and interest on which are unconditionally guaranteed by the said United States, or other marketable securities eligible as security for the deposit of trust funds under regulations of the Comptroller of the Currency, having a market value (exclusive of accrued interest) not less than the amount of moneys on deposit in the Special Fund, or

(2) if the furnishing of security in the manner provided in the foregoing clause (1) of this subsection is not permitted by the then applicable law and regulations, then in such other manner as may be required or permitted by the then applicable state and federal laws and regulations respecting the security for, or granting a preference in the case of, the deposit of public funds;

provided, however, that it shall not be necessary for the Trustee so to secure any portion of the moneys on deposit in the Special Fund that may be insured by the Federal Deposit Insurance Corporation or by any agency of the United States of America that may succeed to its functions.

(c) Resignation of Trustee; Appointment of Successor Trustee. The Trustee at any time serving hereunder may resign as such by written notice of such resignation given to the City, to the original purchaser of the Warrants from the City, and to the County Treasurer. If the Trustee should at any time resign or cease, refuse or become unable to act as Trustee hereunder for the Special Fund, the City shall thereupon appoint a successor trustee hereunder which shall be a banking institution in the State of Alabama that at the time of such appointment is a member of the Federal Deposit Insurance Corporation or any similar instrumentality of the United States of America, if there is any such. Upon the appointment of such successor Trustee the City shall, within five days thereafter, give notice in writing of such

appointment to the County Treasurer and to the original purchaser of the Warrants from the City. All provisions of this ordinance applicable to the Trustee shall likewise be applicable to any successor to it so appointed.

Section 10. Authorization to Remit Directly to Trustee.

(a) County Distributed Portion of City's Share of the State Gasoline Tax. The County Treasurer is hereby authorized and directed to transmit directly to the Trustee, out of the County Distributed Portion of the City's Share of the State Gasoline Tax, such amounts as shall be necessary and sufficient to make the payments into the Special Fund in accordance with the provisions of Section 7 hereof, beginning with the payment required herein to be made during the Month of December, 1973. The City Treasurer is hereby ordered and directed to take all steps that may be necessary to cause such payments to be made into the Special Fund, including the grant to the Trustee of authority to collect the payments so provided to be made direct to the Trustee by the County Treasurer and the authority to endorse all warrants, vouchers and checks therefor and to apply the proceeds thereof toward payment of the principal of and the interest on the Warrants. The City agrees with each holder of the Warrants and the Coupons that, so long as any of the Warrants and the Coupons shall remain unpaid, it will not revoke the authority and direction for remittance directly to the Trustee as contained in this section. To carry out the provisions of this section and the provisions of Section 7 hereof, the Mayor and the City Treasurer are hereby authorized and directed to issue to the County Treasurer an order authorizing and directing the County Treasurer to transmit directly to the Trustee each Month, out of the County Distributed Portion of the City's Share of the State Gasoline Tax, the amount of the payment required by Section 7 hereof to be made by the City into the Special Fund during such Month, all to the extent, at the times, and as otherwise provided in the said Section 7, and to specify in said order the dollar amount of each such payment that the County Treasurer is so to transmit to the Trustee each Month. The Mayor and City Treasurer may, by supplemental order to the County Treasurer, alter and change the dollar amounts of such payments to be so transmitted by the County Treasurer to the Trustee but only under the following conditions:

(1) If the dollar amounts specified in such original order or in any supplemental order are not sufficient to provide for payment of the principal of and the interest on the Warrants as such principal and interest respectively mature and the fees of the Trustee as such fees become due and payable, as contemplated and provided by Section 7 hereof, a supplemental order shall be so issued providing for the transmission directly to the Trustee of revised dollar amounts that will be sufficient to provide for payment of said items at the respective due dates thereof, all as required by Section 7 hereof; and

(2) If any Warrants are paid or redeemed prior to the respective maturities thereof, a supplemental order may be issued providing for the transmission to the Trustee of revised dollar amounts, provided that the revised dollar amounts specified in such supplemental order to be so transmitted to the Trustee shall be sufficient to provide for payment at their respective maturities of the principal of and the interest on the Warrants that will be outstanding after such payment and redemption, and for payment of the fees of the Trustee, as such fees become due and payable, and shall in no event be less than the amounts prescribed in Section 7 hereof to be paid into the Special Fund.

(b) State Distributed Portion of City's Share of State Gasoline Tax. In the event that the County Distributed Portion of the City's Share of the State Gasoline Tax should at any time be insufficient to make the full payment provided in Section 7 hereof to be made into the Special Fund during any Month [and if, accordingly, the amount remitted during any Month to the Trustee by the County Treasurer, pursuant to the order, or any supplemental order, made under subsection (a) of this section, should be less than the amount specified in the said order, or supplemental order, to be made in the said Month], the Mayor and the City Treasurer are hereby authorized and directed to issue forthwith to the State Treasurer an order or orders authorizing and directing the State Treasurer to remit directly to the Trustee, out of the State Distributed Portion of the City's Share of the State Gasoline Tax, during the then current Month (and all then ensuing Months) such amounts as shall be sufficient [when added to the sums remitted (or anticipated to be remitted) by the County Treasurer, out of the County Distributed Portion of the City's Share of the State Gasoline Tax] to provide for payment each Month into the Special Fund of the full amount provided in Section 7 hereof to be paid therein during the said Month.

Section 11. Reservation of Right to Issue Additional Parity Securities. The City reserves the right and privilege to issue at any time and from time to time additional securities of the City (whether in the form of bonds, warrants, certificates or notes) which the City may at the time of such issuance be lawfully authorized to issue, and to pledge for payment of the principal thereof and interest thereon (pro rata and on a parity with the pledge of the City's Share of the State Gasoline Tax made in Section 8 of this ordinance and pro rata and on a parity with the like pledge that may be made for the benefit of each series of the Additional Parity Securities), so much of the City's Share of the State Gasoline Tax as may be necessary to pay the principal of and interest on the Additional Parity Securities at the respective maturities of said principal and interest; provided, that in order to make any such parity pledge the following conditions must exist and be complied with:

(a) The average annual amount of the City's Share of the State Gasoline Tax received by the City during the two Fiscal Years next preceding the Fiscal Year during which any such Additional Parity Securities are delivered to the purchaser thereof must be not less than one and one-half times (150% of) the maximum Annual Debt Service Requirement during the then current or any then succeeding Fiscal Year with respect to the Underlying Warrants and all Parity Securities that will be outstanding immediately following the issuance of the Additional Parity Securities then proposed to be issued. The amount of the City's Share of the State Gasoline Tax received by the City during each of the said two Fiscal Years next preceding the issuance of any such Additional Parity Securities shall be conclusively established by a certificate signed by the Mayor and the City Treasurer setting forth the said amounts, certifying the correctness of the said amounts, and stating that the said amounts were established by and taken from the official records of the City. A copy of each such certificate shall be filed in the office of the City Clerk.

(b) Each issue of the Additional Parity Securities shall be given a different series designation, shall have stated maturities of principal on November 15 in the years in which the Additional Parity Securities of that series shall mature, and shall bear interest payable semiannually on May 15 and November 15. Any series may have provisions for redemption prior to maturity and such other provisions not in conflict with this ordinance as the Council shall determine advisable, and provide for, in the proceedings in which the Additional Parity Securities of that series are authorized to be issued.

(c) The proceedings authorizing each series of Additional Parity Securities (1) shall create and provide for a special trust fund in which the City will agree to make, or cause to be made, out of the City's Share of the State Gasoline Tax, monthly payments sufficient to pay the principal of and interest on that series of the Additional Parity Securities at the respective maturities of the said principal and interest, and to pay any trustee's fee with respect to the said special fund so created; and (2) shall provide that the obligation of the City to cause payments to be made into the said special trust fund in respect to the said series of Additional Parity Securities shall be on a parity with (i) the City's obligation hereunder to cause such payments to be made into the Special Fund and its obligation to make payments into any other special trust funds created pursuant to the provisions of this subsection (c).

The provisions for each such special trust fund hereafter created for the benefit of any series of Additional Parity Securities, in accordance with this subsection (c), shall parallel in all respects the provisions herein set forth with respect to the Special Fund [including, but without limitation to, provisions for direct remittances to a trustee which parallel the provisions of Section 10 hereof].

Each series of Additional Parity Securities shall [upon compliance in respect of that series with the conditions set forth in the foregoing subsections (a), (b) and (c) of this section] be secured on a parity with the Warrants by a pledge of the City's Share of the State Gasoline Tax; the agreements and provisions for payments into the special trust fund created, pursuant to the provisions of the foregoing subsection (c) for the benefit of the said series of Additional Parity Securities, shall be on a parity with the agreements herein made and the provisions hereof with respect to the Special Fund; and all other agreements and provisions hereof in respect of the City's Share of the State Gasoline Tax shall be on a parity with parallel and similar agreements and provisions in the proceedings authorizing each series of Additional Parity Securities.

Section 12. Form of Warrants. The Warrants, the Coupons, and the provisions for the assignment thereof shall be in substantially the following forms, with appropriate insertions and variations therein to conform to the provisions hereof:

(Form of Warrant)

No. _____

\$5,000

UNITED STATES OF AMERICA

STATE OF ALABAMA

CITY OF PRICHARD

STREET IMPROVEMENT STATE GASOLINE TAX ANTICIPATION WARRANT
SERIES 1973A

The City Treasurer of the City of Prichard (herein called "the city"), a municipal corporation in the State of Alabama, is hereby ordered and directed to pay to Hugh Morrow, Jr., or assigns, solely from the special fund hereinafter referred to, the principal sum of

FIVE THOUSAND DOLLARS

on the 15th day of November, 19____ (unless this warrant shall have been duly called for prior payment), upon surrender hereof on or after said date, with interest thereon from the date hereof until the maturity hereof at the rate of 6-3/4% per annum, payable semiannually on May 15 and November 15 in each year upon surrender of the appropriate interest coupons hereto attached as the same respectively become due. This warrant and the interest coupons applicable hereto shall bear interest at the rate of 8% per annum after their respective maturities and shall be payable in lawful money of the United States of America at the principal office of The Merchants National Bank of Mobile in the City of Mobile in the State of Alabama.

This warrant is one of an issue of warrants (herein called "the warrants") in the authorized principal amount of \$1,750,000, consisting of warrants numbered from 1 to 350, inclusive, and has been issued pursuant to the applicable provisions of the constitution and laws of Alabama, including particularly Section 253 of Title 37 of the Code of Alabama of 1940, and Act No. 531 adopted at the 1953 Regular Session of the Legislature of Alabama, as amended, for the purpose of refunding the principal of outstanding warrants of the city issued to pay costs of improvement of public streets in the city, including construction of facilities for drainage of said streets.

This warrant and the interest thereon shall be payable solely from the special fund known as the "1973A State Gasoline Tax Anticipation Warrant Fund" of the city created by the ordinance of the city under which this warrant is issued. Said special fund consists solely of certain sums which are directed by said ordinance to be paid into said special fund out of the moneys distributed to the city, pursuant to the provisions of Act No. 224 adopted at the 1967 Special Session of the Legislature of Alabama, and Act No. 476 adopted at the 1967 Regular Session of the said Legislature, or any other statute, as the city's share of

the following excise taxes (herein together called "the state gasoline tax"): (i) the excise tax levied by the State of Alabama under the provisions of Section 647 of Title 51 of the Code of Alabama of 1940, as amended, on the sale, distribution, storage and withdrawal from storage of gasoline, as that term is defined in the said Section 647, remaining after deduction of the costs of collection, refunds, and the amounts collected with respect to aviation fuel and marine gasoline, as those terms are used in the said Section 647, and (ii) the excise tax levied by Act No. 674 adopted at the 1961 Regular Session of the said Legislature, as amended, exclusive of that portion of the said tax in respect of diesel fuel (the portion of the state gasoline tax that is distributed to the city pursuant to the provisions of the said Acts Nos. 224 and 476, or any other statute, being herein called "the city's share of the state gasoline tax"). This warrant is not a general obligation of the city, and neither its full faith and credit nor any of its taxing powers are pledged for payment of this warrant or the interest thereon. The city is not obligated to pay the principal of or interest on this warrant except from moneys ordered paid into said special fund, and none of the agreements, representations or warranties made or implied in the issuance of this warrant shall be deemed to impose any liability whatsoever upon the city, except to pay the principal hereof and interest hereon out of the moneys ordered paid into said special fund.

The warrants are subject to redemption and payment prior to maturity, at the option of the city, on November 15, 1983, and on any interest payment date thereafter, as a whole or in part and if in part then in inverse numerical order of those at the time outstanding, at the face value of each warrant redeemed plus accrued interest thereon to the date fixed for redemption and a premium equal to twelve months' interest thereon; provided, that prior notice of such redemption must be given by publication at least one time not less than thirty (30) days before the date fixed for redemption in both a newspaper published in the City of Birmingham, Alabama, and a financial journal published in the City and State of New York; provided, however, that publication either in such a newspaper or in such a financial journal shall suffice if either such financial journal or such newspaper is not being published at the time the city directs such publication to be made.

In the proceedings authorizing the issuance of the warrants, the city has specially and irrevocably pledged for payment of the principal of and interest on the warrants, at the respective maturities of such principal and interest, so much as may be necessary for such purpose of the city's share of the state gasoline tax. In the said proceedings, the city reserved the privilege, upon compliance with certain requirements set forth in the said proceedings, of issuing additional securities and securing them by a pledge of the city's share of the state gasoline tax, on a parity with the aforesaid pledge thereof for the benefit of the warrants.

It is hereby certified and recited that the indebtedness evidenced and ordered paid by this warrant is lawfully due without condition, abatement or offset of any description; that this warrant has been registered in the manner provided by law; and that all conditions, actions and things required by the constitution and laws of the State of Alabama to exist, be performed or happen precedent to and in the issuance of this warrant do exist, have been performed and have happened.

This warrant is nonnegotiable but is transferable by assignment. Each taker, owner, purchaser or holder hereof, by receiving or accepting this warrant or any interest coupon applicable hereto shall consent and agree and shall be estopped to deny: (1) that title to the coupons hereunto appertaining may be transferred by delivery without the necessity of a written assignment, and any person making such delivery shall be deemed to have transferred to the person to whom such delivery is made all of his equities or rights in the coupons so delivered; (2) that any person in possession of such coupon, regardless of the manner in which he shall have acquired possession is authorized to represent himself as the absolute owner thereof and has the power and authority to transfer absolute title thereto by delivery thereof to a bona fide purchaser for value (present or antecedent) without notice of prior defenses or equities or claims of ownership enforceable against his transferor or any person in the chain of title and before the maturity thereof; and (3) that whenever and so long as this warrant is assigned in blank by written assignment by the original payee hereof or by any subsequent assignee hereof in the chain of title to whom written assignment is made, the city may treat any person in possession of this warrant, regardless of how such possession may have been acquired and regardless of the genuineness or effectiveness of any assignment, as the absolute owner hereof for all purposes, and payment to any such person shall discharge all obligations hereunder.

IN WITNESS WHEREOF, the city has caused this warrant to be executed in its behalf by the signature of its mayor manually subscribed hereon, has caused a facsimile of its official seal to be hereon imprinted, has caused the execution of this warrant and the said seal to be attested by the manually written signature of its city clerk, has caused the annexed coupons to be executed and attested with facsimiles of the signatures of said officials, and has caused this warrant to be dated November 15, 1973.

CITY OF PRICHARD

By _____
Its Mayor

Attest:

Its City Clerk

(Form of Coupon)

Coupon
No. _____

\$168.75

On the 15th day of _____, 19____, the City Treasurer of the City of Prichard in the State of Alabama is ordered and directed to pay to the bearer hereof the sum of One Hundred Sixty-eight and 75/100 Dollars, solely out of the special fund of the city known as its "1973A State Gasoline Tax Anticipation Fund", upon surrender of this coupon at the principal office of The Merchants National Bank of Mobile in the City of Mobile, Alabama. This coupon represents six months' interest which will become due on said date on, and is part of and subject to the provisions contained in, the Street Improvement State Gasoline Tax Anticipation Warrant, Series 1973A, of the City of Prichard, Alabama, dated November 15, 1973, numbered ____.

CITY OF PRICHARD

By _____
Its Mayor

Attest:

Its City Clerk

(Form of Assignment)

For value received, this warrant and the indebtedness evidenced and ordered paid thereby are hereby assigned, without recourse or warranties, to _____.

Immediately after the maturity date of each Coupon due on or after May 15, 1984, applicable to the Warrants, there shall be inserted the following:

"(unless the warrant to which this coupon is applicable shall have been duly called for prior payment),"

Section 13. Provision for Payment at Par. The bank at which the Warrants and the Coupons shall at any time be payable, by acceptance of its duties as paying agent therefor, shall be construed to have agreed thereby with the holders of the Warrants and the Coupons that it will make, out of the funds supplied to it for that purpose, all remittances of principal of and interest on the Warrants and the Coupons in bankable funds at par and without deduction for exchange, fees or expenses. The City agrees with the holders of the Warrants and the Coupons that it will pay all charges for exchange, fees, or expenses which may be made by the said bank in the making of remittances in bankable funds of the principal of and interest on any of the Warrants and the Coupons.

Section 14. Creation of Contract. The provisions of this ordinance shall constitute a contract between the City and each holder of the Warrants and the Coupons.

Section 15. Provisions of Ordinance Severable. The various provisions of this ordinance are hereby declared to be severable. In the event any provision hereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this ordinance.

Section 16. Sale of the Warrants. The Warrants are hereby sold to Watkins, Morrow & Co., Inc., at a purchase price equal to 95% of the face value of the Warrants, viz., the sum of \$1,662,500.00, plus accrued interest on the Warrants from November 15, 1973, to the date of the delivery thereof. The Warrants shall be made payable to Hugh Morrow, Jr., the nominee of the purchaser of the Warrants, in accordance with directions given by the said purchaser. The City Treasurer is hereby authorized and directed to deliver the Warrants, having attached thereto all of the Coupons, to the said purchaser upon payment to the City of the said purchase price.

Section 17. Use of Proceeds from the Warrants. The proceeds from the sale of the Warrants shall be applied for the purpose for which they are herein authorized to be issued and to that end shall be applied for payment of principal of the Outstanding Short-Term Warrants.

(a) Establishment of Construction Account. There is hereby created a special trust account for construction of the Projected Street Improvements. The said special trust account shall be designated the "1973A Street Improvement Construction Account"; and The Merchants National Bank of Mobile, a bank having its principal office in Mobile, Alabama, shall be and remain the depository therefor. Simultaneously with the issuance of the Warrants, the City will cause to be paid into the Construction Account the entire residue of cash and securities then remaining on deposit

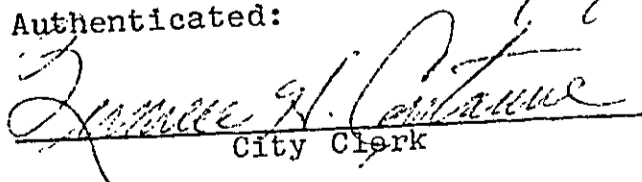
in the 1973 Street Improvement Construction Account No. 2 created in Section 13(a) of the aforesaid Ordinance No. 1367 of the City, whereunder the Outstanding Short-Term Warrants were authorized to be issued.

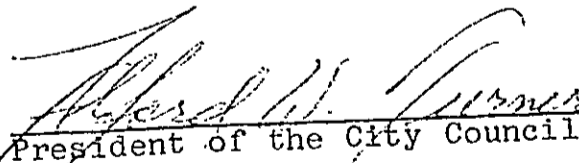
(b) Use of Construction Account. The moneys on deposit in the Construction Account shall be initially applied for payment of the costs of the Projected Street Improvements, all in accordance with plans and specifications therefor prepared by Polyengineering, Inc., Consulting Engineers for the City. To that end, the moneys on deposit in the Construction Account shall be paid out by the depository therefor on checks, drafts or orders (a) signed in the name of the City by the Mayor or City Treasurer and countersigned by the other of the said two officers, and (b) accompanied by certificate by Polyengineering, Inc., approving the disbursement represented by the said check, draft, or order as a disbursement for payment of costs of the Projected Street Improvements (or, in the event the said firm should become unable or unavailable to act as Consulting Engineers for the City in respect of the Projected Street Improvements, by another registered engineer or firm of registered engineers appointed for such purpose by the Council). The costs of acquiring, providing and constructing the Projected Street Improvements shall be deemed to include engineer's fees, attorney's fees, and other expenses incidental to the construction of the Projected Street Improvements and to the issuance of the Short-Term Warrants.

(c) Investment of Construction Account. The depository for the Construction Account is hereby authorized and directed to invest and reinvest in investments in which municipal funds are permitted by law to be invested and to convert into cash any such investment, all pursuant to and in accordance with written orders filed with the said depository from time to time by the Mayor and City Treasurer. Any such investment, together with the income from such investments, shall become a part of the Construction Account and shall be held by the said depository as a part of the Construction Account.

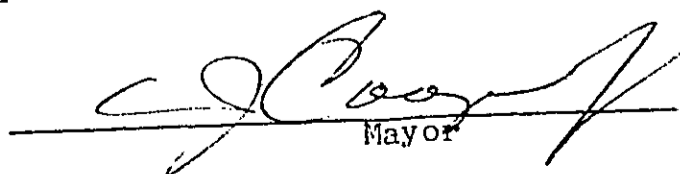
ADOPTED this 26th day of November, 1973.

Authenticated:


City Clerk


President of the City Council

APPROVED this 24 day of November, 1973.


Mayor