

ORDINANCE NO. 915

AN ORDINANCE TO PROVIDE FOR A GENERAL
OBLIGATION SEWER WARRANT OF THE CITY
IN THE PRINCIPAL AMOUNT OF \$225,000

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

Section 1. Definitions. The following words
and phrases and others evidently intended as the equivalent
thereof shall, in the absence of clear implication herein
otherwise, be given the following respective interpretations
in this ordinance:

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

"Council" means the governing body of the city as
at any time constituted.

"Gross receipts tax" means the license tax referred
to in Section 8 hereof.

"Gross Receipts Tax Fund" means the Gross Receipts
Tax Fund created in Section 14 of Ordinance No. 904 and re-
ferred to in Section 9 hereof.

"Interest payment date" means any February 1 or
August 1.

"Ordinance No. 904" means Ordinance No. 904 of the
city which was adopted by the council and approved by the
mayor on July 17, 1961.

"Outstanding note" means the General Obligation
Tax Anticipation Note of the city dated January 4, 1962
which is referred to in Section 2 (a) hereof.

"Warrant" means the warrant authorized to be issued
by the city in Section 3 hereof.

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

The definitions herein set forth shall be deemed applicable whether the words defined are herein used in the singular or plural.

Any pronoun or pronouns, wherever used herein, shall be deemed to include both singular and plural and to cover all genders.

Section 2. Findings by the Council. The council has caused an investigation to be made of the matters hereinafter referred to and, as a result of such investigation, has determined and does hereby declare that the following statements are true:

(a) Acting pursuant to the provisions of a resolution adopted by the council and approved by the mayor on December 22, 1961, the city did on January 4, 1962 borrow from The Merchants National Bank of Mobile the principal amount of \$35,000 for the recited purpose of raising funds to pay costs of carrying on the necessary functions of the city and in anticipation of the collection of taxes, but the proceeds of such borrowing were actually used to retire an obligation incurred in acquiring, providing and constructing sanitary sewers in the city. In evidence of the money so borrowed, the city did on January 4, 1962 deliver to the said bank a General Obligation Tax Anticipation Note of the city payable to the order of the said bank on April 4, 1962 in the said principal amount. The outstanding note was executed and the corporate seal of the city was affixed thereto by the mayor, and the city clerk attested the same by affixing her signature thereto, whereupon the outstanding note was registered by the city treasurer in the records of the city as a claim against the city. The proceeds derived from the outstanding note were actually used by the city for discharging an obligation incurred in acquiring, providing and constructing sanitary sewers in the city. The action of the council in so authorizing the outstanding note, and the actions of the said officers in selling and delivering the outstanding note, and the action of the officers of the city in using the proceeds therefrom for retiring an obligation incurred in acquiring, providing and constructing sanitary sewers in the city, are all hereby ratified and approved. It is hereby recognized and acknowledged that the outstanding note is a valid general obligation of the city in the principal amount thereof, and that for the payment of the principal thereof and interest thereon the full faith and credit of the city have been validly and irrevocably pledged. In the opinion of the council it would be advantageous for the city if the outstanding note should be refunded by the city in the manner referred to in Section 3 hereof in order that the principal indebtedness evidenced by the outstanding note may be made to mature in orderly installments over a period of years within the ability of the city to pay.

(b) In order to go forward with the construction of the sanitary sewer system in the city it will be necessary to raise an additional amount of \$190,000. The council is of the opinion that it would be desirable and in the best interest of the city and of its citizens and taxpayers if the said amount could be borrowed as a part of the financing hereinafter authorized.

(c) Under the provisions of Section 12 of Ordinance No. 904 of the city adopted by the council and approved by the mayor on July 17, 1961, the city reserved the right to issue additional securities which it might lawfully issue, and to pledge for payment of the principal thereof and interest thereon, pro rata and on a parity with the pledge of the gross receipts tax made in Section 11 of said Ordinance No. 904, and on a parity with any like pledge that might be made upon compliance with the conditions contained in Section 12 of Ordinance No. 904 for the benefit of each series of additional securities which might be issued on a parity of lien therewith, so much of the gross receipts tax and the proceeds therefrom as may be necessary to pay the principal of and interest on such additional securities at the respective maturities of such principal and interest. The council does hereby declare that all of the conditions for the issuance of the warrant and the pledge herein made of the gross receipts tax for payment of the principal of and interest on the warrant, on a parity with the pledge thereof contained in Section 11 of said Ordinance No. 904, do exist and have been done, and the council does hereby specially declare that the warrant hereinafter authorized is issued, and the pledge of the gross receipts tax hereinafter made for the benefit of the warrant is made, under the reserved power so to do contained in Section 12 of said Ordinance No. 904.

Section 3. Authorization of the Warrant. For the purpose of refunding the outstanding note, and acting pursuant to the authority so to do contained in the applicable provisions of the constitution and laws of Alabama including particularly Section 253 of Title 37 of the Code of Alabama of 1940, there is hereby authorized to be borrowed the sum of \$35,000. For the purpose of raising funds with which to acquire, provide and construct sanitary sewers in the city and acting pursuant to the authority so to do contained in the applicable provisions of the constitution and laws of Alabama including particularly Section 466 of Title 37 of the Code of Alabama of 1940, there is hereby authorized to be borrowed the additional sum of \$190,000. The amounts so authorized to be borrowed, aggregating \$225,000, shall be borrowed from The Merchants National Bank of Mobile, and in evidence of the borrowings so made there is hereby authorized

to be issued and delivered to the said bank one General Obligation Sanitary Sewer Warrant of the city in the principal amount of \$225,000 which shall be dated August 1, 1961 and shall mature in annual installments in the following principal amounts:

<u>Date of Maturity of Principal Installment</u>	<u>Amount of Principal In- stallment Due on said Date</u>
August 1, 1963	\$ 18,000
August 1, 1964	19,000
August 1, 1965	20,000
August 1, 1966	21,000
August 1, 1967	22,000
August 1, 1968	23,000
August 1, 1969	24,000
August 1, 1970	25,000
August 1, 1971	26,000
August 1, 1972	27,000

Each such principal installment of the warrant shall bear interest at the rate of 4-1/2% per annum from February 1, 1962 until its maturity, which interest shall be payable on August 1, 1962 and semiannually thereafter on each February 1 and August 1. As each such principal and interest installment is paid, notation of such payment shall be made in the space provided therefor at the end of the warrant. Each principal and interest installment on the warrant shall bear interest at the rate of 6% per annum after their respective maturities, and shall be payable in lawful money of the United States of America at the Prichard Branch of The Merchants National Bank of Mobile, in Prichard, Alabama.

Section 4. Execution of the Warrant. The warrant shall be executed and the corporate seal of the city shall be affixed thereto by the mayor, and the city clerk shall attest the same by affixing her signature thereto. The warrant shall be registered by the city treasurer in the records maintained by her as a claim against the city and against the special tax hereinafter pledged therefor.

Section 5. Place and Medium of Payment of the Warrant. The principal of and interest on the warrant shall be payable in lawful money of the United States of America at the Prichard Branch of The Merchants National Bank of Mobile, in the City of Prichard in the State of Alabama.

Section 6. Prepayment Privilege. The city reserves the privilege of prepaying all or part of the principal of the warrant at any time prior to maturity; provided, that if a portion only of the principal then remaining unpaid of the warrant should be paid prior to maturity then the portion of the principal so prepaid must be an amount equal to \$1,000 or a multiple thereof and the portion of the principal so prepaid shall be credited on that part of the

Then outstanding principal having the then latest maturity; and provided, further, that all unpaid interest accrued to the date of such prepayment on the principal so prepaid prior to maturity shall be paid simultaneously with the payment of the principal so prepaid.

Section 7. General Obligation Pledge. The indebtedness evidenced and ordered paid by the warrant is and shall be a general obligation of the city for the payment of the principal of and interest on which the full faith and credit of the city are hereby irrevocably pledged.

Section 8. Special Pledge of the Gross Receipts Tax. As additional security for the payment of the principal of and interest on the warrant, and as a part of the contract whereunder the money evidenced by the warrant is borrowed, the city agrees to continue to levy, collect and apply, and hereby specially and irrevocably pledges, to the extent necessary to pay the principal of and interest on the warrant at the respective maturities of such principal and interest, that certain special privilege and license tax of the city (together with the proceeds thereof) which was levied by Ordinance No. 880 of the city with respect to certain business activities, to the extent to which the said tax was levied within the corporate limits of the city; provided, however, that so long as no default shall exist in the payment of the principal of or interest on the warrant the proceeds from the gross receipts tax shall be used to pay the said principal of and interest on the warrant at the respective maturities of said principal and interest, and the balance of the said proceeds remaining in each fiscal year of the city while no such default exists may be used by the city for any lawful purpose. To whatever extent, if any, the proceeds of the gross receipts tax available for said purpose may not be sufficient to pay the principal of and interest on the warrant at the respective maturities of said principal and interest, the city agrees to use for said purpose so much of the general revenues of the city derived from other sources and available for said purpose as may be necessary to pay said principal and interest at their respective maturities. The city does hereby specially declare that the pledge of the gross receipts tax, including the proceeds thereof, contained in this section shall be on a parity with the pledge of the gross receipts tax made in Section 11 of said Ordinance No. 904 and is made under the reserved rights so to do contained in Section 12 of said Ordinance No. 904.

Section 9. Adoption of Certain Provisions of Ordinance No. 904. The provisions contained in Sections 13, 14, 15, 16, and 17 of Ordinance No. 904, to the extent to which the same may be applicable to the warrant, are hereby incorporated in this ordinance to the same extent as if those provisions were set out in full herein. The city specially agrees to make the monthly payments into the Gross Receipts Tax Fund created in Section 14 of said Ordinance No. 904.

Section 10. Form of the Warrant. The warrant and the provisions for assignment thereof shall be in substantially the following form:

(Form of Warrant)

\$225,000

\$225,000

UNITED STATES OF AMERICA

STATE OF ALABAMA

CITY OF PRICHARD

GENERAL OBLIGATION SANITARY SEWER WARRANT
SERIES 1962

The City Treasurer of the City of Prichard (herein called "the city"), in the State of Alabama, is hereby ordered to pay to The Merchants National Bank of Mobile, or its assigns, the principal sum of

TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS

in ten annual principal installments as follows:

<u>Maturity Date of Principal Installments</u>	<u>Amount of Princi- pal Installment Ma- turing on Said Date</u>
August 1, 1963	\$18,000
August 1, 1964	19,000
August 1, 1965	20,000
August 1, 1966	21,000
August 1, 1967	22,000
August 1, 1968	23,000
August 1, 1969	24,000
August 1, 1970	25,000
August 1, 1971	26,000
August 1, 1972	27,000

together with interest from February 1, 1962 at the rate of 4-1/2% per annum on the principal hereof remaining unpaid on each such interest payment date, which interest shall be payable on August 1, 1962 and semiannually thereafter on each February 1 and August 1. As each such principal and interest installment is paid, notation of such payment shall be made in the space provided therefor at the end of this warrant. Both the principal of each such installment and the interest payable hereunder shall bear interest at the rate of 6% per annum after their respective maturities, and shall be payable in lawful money of the United States of America at the Prichard Branch of The Merchants National Bank of Mobile, in the City of Prichard in the State of Alabama.

The city reserves the privilege of prepaying all or part of the principal of this warrant at any time prior to maturity; provided, that if a portion only of the principal then remaining unpaid shall be paid prior to maturity

the portion so prepaid must be an amount equal to \$1,000 or a multiple thereof, and the portion of the principal so prepaid shall be deemed to be that part of the then outstanding principal having the latest maturity; and provided, further, that all unpaid interest accrued to the date of such prepayment on the principal so prepaid shall be paid simultaneously with the payment of the principal so prepaid.

This warrant has been issued pursuant to the applicable provisions of the constitution and laws of the State of Alabama, including particularly Section 253 of Title 37 of the Code of Alabama of 1940 for the purpose of refunding an obligation of the city incurred to discharge an obligation originally incurred in acquiring, providing, and constructing sanitary sewers in the city, and also particularly including Section 466 of Title 37 of the Code of Alabama of 1940 for the purpose of raising funds with which to acquire, provide, and construct sanitary sewers in the city, and an ordinance duly adopted by the governing body of the city. The indebtedness evidenced and ordered paid by this warrant is a general obligation of the city for the payment of the principal of and interest on which the full faith and credit of the city have been irrevocably pledged. In addition thereto, the city has irrevocably pledged for payment of said principal and interest at their respective maturities so much as may be necessary for said purpose of the special privilege and license tax of the city levied by Ordinance No. 880 of the city, together with the proceeds therefrom, to the extent that the said tax is levied with respect to businesses conducted within the corporate limits of the city, which pledge is on a parity with a pledge made for the benefit of certain outstanding securities of the city and may be on a parity with a pledge of said tax which may under certain conditions be made for the benefit of additional securities of the city hereafter issued.

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; 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 exist, have been performed and have happened; and that the indebtedness evidenced and ordered paid by this warrant, together with all other indebtedness of the city, was at the time the same was created and is now within every debt and other limit prescribed by the constitution and laws of the State of Alabama.

This warrant is nonnegotiable but is transferable by assignment. Each taker, owner, purchaser or holder hereof, by receiving or accepting this warrant, shall consent

and agree and shall be estopped to deny that whenever and so long as this warrant may be assigned in blank by written assignment by the original payee, or by any subsequent owner 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 and its official seal to be hereto affixed by its mayor, has caused the same to be attested by its city clerk, both of whom have hereunto subscribed their signatures, and has caused this warrant to be dated August 1, 1961.

CITY OF PRICHARD

By _____
Its Mayor

Attest:

City Clerk

(FORM OF
ASSIGNMENT)

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

(Form of
CERTIFICATE OF REGISTRATION)

I, the undersigned City Clerk of the City of Prichard, Alabama, hereby certify that the foregoing warrant has been duly registered by me in the records of said city as a claim against said city and the gross receipts license tax pledged therefor.

City Clerk

(Form of
NOTATION OF PAYMENTS)

<u>Date of</u> <u>Payment</u>	<u>Amount of</u> <u>Principal</u> <u>Paid</u>	<u>Amount of</u> <u>Interest</u> <u>Paid</u>	<u>Signature of Holder</u> <u>of This Warrant to</u> <u>Whom Payment is Made</u>
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Section 11. Creation of Contract. The provisions of this ordinance shall constitute a contract between the city and each successive holder of the warrant.

Section 12. Provisions of Ordinance Severable. The various provisions of this ordinance are hereby declared to be severable. In the event any provision hereof should be held invalid by a court of competent jurisdiction such invalidity shall not affect any other portion of this ordinance.

Section 13. Delivery of the Warrant. The warrant shall be delivered to The Merchants National Bank of Mobile upon payment by said bank to the city of the sum of \$225,000 plus accrued interest thereon from February 1, 1962 to the date of such payment. The city treasurer is authorized and directed to effect such delivery. \$35,000 of the principal proceeds derived from the issuance of the warrant shall thereupon be used to pay the principal of the outstanding note, and the city treasurer is hereby directed to use from the city's funds available for that purpose so much as may be necessary to pay the interest on the outstanding note to the date of payment thereof. Upon receipt of the outstanding note the same shall thereupon be canceled and retired.

Adopted this 12th day of February, 1962.

H.J. Moulvet

President of the City Council

Authenticated:

Berniece H. Centanne

City Clerk

Approved this 12th day of February, 1962.

V.O. Capps

Mayor