

ORDINANCE NO. 886

An Ordinance To Provide For The Assurance By The City Of Prichard Of A General Obligation Refunding Warrant In The Principal Amount Of \$100,000.

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

Section 1. DEFINITION. 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 7 hereof.

"Interest payment date" means the first day of each December.

"Outstanding note" means the General Obligation Tax Anticipation Note of the city dated October 31, 1960 which is referred to in Section 2 hereof.

"Special fund" means the City of Prichard Warrant Fund of 1960 created in Section 9 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 outstanding obligations of the city and, as a result of such investigation, has determined and does hereby declare that the following statements are true: Acting pursuant to the provisions of a resolution adopted by the council on October 31, 1960, the city did on October 31, 1960, borrow from The Merchants National Bank of Mobile the principal sum of \$100,000 for the purpose of raising funds with which to pay obligations of the city necessary to carry on the essential governmental functions of the city and in anticipation of the collection of taxes and of the city, all as authorized by Section 466 of Title 37 of the Code of Alabama of 1940. In evidence of the money so borrowed, the city did on October 31, 1960, deliver to the said bank the General Obligation Tax Anticipation Note of the city payable to the order of the said bank on October 31, 1961, bearing interest from its date until its maturity at the rate of 4% per annum, with the privilege reserved therein of prepaying all or any part of the principal thereof prior to its maturity, without penalty, but upon payment of the interest which shall have accrued on the then unpaid portion of the principal to the date of such prepayment. The outstanding note was executed and the corporate seal of the city was affixed thereto by the then president of the council, acting as ex officio mayor pro tempore of the city who so acted during the absence of the then mayor who was unable to act because of illness, and the city clerk attested the same by affixing her signature thereto, whereupon the city treasurer registered the outstanding note in the records of the city maintained by her as a claim against the city and the outstanding note was delivered to the said bank against payment in full thereof by the said bank. The action of the council in so authorizing the outstanding note, and the actions of the said officers in executing, sealing, attesting and delivering the same, 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 said principal amount, 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 to the city if the outstanding note should be refunded at this time by the issuance of the warrant 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.

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 the State of Alabama, including particularly Section 253 of Title 37 of the Code of Alabama of 1940, there is hereby authorized to be issued and delivered to The Merchants National Bank of Mobile one General Obligation Refunding Warrant of the city in the principal amount of \$100,000 which shall be dated December 1, 1960, and shall mature in ten annual principal installments in the amount of \$10,000 each, one of which shall be payable on December 1 in each of the years from 1961 to 1970, inclusive. The warrant shall bear interest from December 1, 1960 until its respective maturities at the rate of 4% per annum payable, with respect to the unpaid balance of the principal thereof, on the first day of each December commencing on December 1, 1961, and continuing until and at the maturity of each such principal installment, and at the legal interest rate after the said respective maturities.

Section 4. EXECUTION OF THE WARRANT. The warrant shall be executed by the corporate seal of the city and shall be af-

fixed 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 \$10,000 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 AND SPECIAL 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. In addition thereto, as security for payment of the principal of and interest on the warrant, and as a part of the contract whereunder the money evidenced thereby is borrowed, the city agrees to hereby 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 said principal and interest, that certain special gross receipts tax levied by Ordinance No. 880 of the city with respect to certain business activities to the extent to which the same is levied within the corporate limits of the city; provided, however, that so long as there is no default 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 and interest at their respective maturities and the balance of the proceeds therefrom 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 represents and guarantees that upon delivery of the warrant as herein authorized there will be no outstanding agreement or pledge with respect to the proceeds of the gross receipts tax other than the agreements and pledge herein contained, that the said agreements and pledge herein made respecting the gross receipts tax will constitute the first pledge thereof and of its proceeds, and that the agreements and pledge respecting the gross receipts tax and of its proceeds herein made shall be and remain prior and superior to any and all pledges and agreements respecting the same that may hereafter be made by the city.

Section 8. MAINTENANCE OF THE GROSS RECEIPTS TAX. The city agrees that so long as any of the principal of or interest on the warrant remains unpaid, or until provision shall have been made for full payment of said principal and interest, the city will continue the levy of and will collect the gross receipts tax at the rates thereof not less than the rates presently in effect and without reduction in the aggregate annual amount of the proceeds thereof.

Section 9. CREATION OF SPECIAL FUND. There is hereby created a special fund, which shall constitute a trust fund, the full name of which shall be the City of Prichard Warrant Fund of 1960. The special fund shall be continued so long as the principal of or interest on any of the warrant remains unpaid. The city agrees to pay into the special fund during each successive month, commencing with the month of December 1960, an amount equal to one-twelfth of the interest plus one-twelfth of the principal payable on the warrant on the then next ensuing December 1. The depository for the special fund is hereby authorized and directed to pay out of the moneys on deposit therein the installments of principal and interest on the warrant as said principal and interest respectively mature.

Section 10. FORM OF THE WARRANT. The warrant and the provisions for assignment thereof shall be in substantially the following form:

(Form of Warrant)
\$100,000 \$100,000
UNITED STATES OF AMERICA
STATE OF ALABAMA
CITY OF PRICHARD
GENERAL OBLIGATION
REFUNDING WARRANT

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

ONE HUNDRED THOUSAND DOLLARS in ten annual installments of \$10,000 each, payable on the 1st day of December in each of the years from 1961 to 1970, inclu-

sive, with interest at the rate of 4% per annum on the then unpaid balance of principal, which interest shall be payable on the first day of each June until and at the maturity of each principal installment. Both the principal hereof and the interest hereon 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 \$10,000 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 on the then unpaid principal accrued to the date of such prepayment 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, and an ordinance of the city duly adopted by the governing body of the city, for the purpose of refunding an outstanding valid obligation of the city in like aggregate principal amount. 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, as security for the payment of said principal and interest, and as part of the contract whereunder the borrowing evidenced hereby was made, the city has agreed to levy, collect and apply, and has irrevocably pledged, to the extent necessary to pay the said principal and interest at their respective maturities, that special gross receipts license tax provided for and levied in Ordinance No. 880 of the city to the extent to which the same is levied within the corporate limits of the city.

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.

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 December 1, 1960.

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 _____

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

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 IN EXCHANGE FOR THE OUTSTANDING NOTE. The warrant shall be delivered to The Merchants National Bank of Mobile in exchange for and upon surrender to the city of the outstanding note. The city treasurer is hereby authorized and directed to effect such delivery and exchange and to pay to the said bank the interest accrued on the outstanding warrant to December 1, 1960, which is the date of the warrant. Upon receipt of the outstanding note the same shall thereupon be cancelled and retired.

Adopted this 5th day of December, 1960.

N. J. MOULYET,
President of the City Council
Authenticated:
BERNIECE H. CENTANNE,
City Clerk

Approved this 5th day of December, 1960.

V. O. CAPPS,
Mayor
The Citizen. December 15, 1960.