

ORDINANCE NO. 591

AN ORDINANCE AUTHORIZING THE ISSUANCE
OF \$900,000 PRINCIPAL AMOUNT OF PUBLIC
IMPROVEMENT BONDS, SERIES 1953, OF THE
CITY OF PRICHARD TO BE DATED OCTOBER 1,
1953

BE IT ORDAINED by the City Council (herein called
"the council") of the City of Prichard (herein called "the city")
in the State of Alabama as follows:

Section 1. Findings Respecting Improvements.

The city has heretofore authorized the construction of certain im-
provements (herein called "the improvements"), consisting of
sanitary sewer improvements, under the provisions of the city's
Ordinance No. 584 adopted on July 6, 1953, as amended by the city's
Ordinance No. 585 adopted on August 3, 1953 (said Ordinance No.
584, as so amended, being herein called "the improvement ordinance").
The city does hereby find and declare as follows: that the im-
provements provided for in the improvement ordinance have not been
completed and that the estimated cost of completing the same aggre-
gates \$900,000; that no bonds have heretofore been issued by the
city to pay the costs of constructing the improvements or any part
thereof; and that it will be necessary for the city to sell and issue
the bonds hereinafter referred to for the purpose of paying the
costs of constructing the improvements.

Section 2. Authorization of Bonds. Pursuant to
the applicable provisions of the constitution and laws of the State
of Alabama, including particularly Chapter 6 of Title 37 of the Code
of Alabama of 1940, as amended, there are hereby authorized to be
sold and issued by the city \$900,000 aggregate principal amount of
Public Improvement Bonds, Series 1953 (herein called "the bonds"),
of the city for the purpose of providing funds to pay the cost of
making the improvements. The bonds shall be dated October 1, 1953,
shall consist of nine hundred (900) coupon bonds in the denomination
of \$1,000 each, shall be numbered consecutively from 1 to 900, in-
clusive, and shall mature on October 1 as follows:

<u>Bond Numbers</u> <u>(both inclusive)</u>	<u>Year of Maturity</u>	<u>Aggregate Principal</u> <u>Amount Maturing</u>
1 to 90	1954	\$90,000
91 to 180	1955	90,000
181 to 270	1956	90,000
271 to 360	1957	90,000
361 to 450	1958	90,000
451 to 540	1959	90,000
541 to 630	1960	90,000
631 to 720	1961	90,000
721 to 810	1962	90,000
811 to 900	1963	90,000

The bonds shall bear interest from their date until their respec-
tive maturities at the rate of $4\frac{1}{2}\%$ per annum payable semiannually
on April 1 and October 1 until and at the respective maturities of
the bonds. Such interest prior to and at maturity shall be evidenc-
ed by coupons (herein called "the coupons") attached to the bonds.
Both the bonds and the coupons shall bear interest at the rate of
6% per annum after their respective maturities. The bonds and the
coupons shall be payable in lawful money of the United States of
America at the principal office of the First National Bank of Mont-
gomery in the City of Montgomery in the State of Alabama.

Section 3. Optional Redemption of Callable Bonds.

Those of the bonds maturing in 1959 and thereafter (herein sometimes called "the callable bonds") may be redeemed prior to their respective maturities at the option of the city, while the city is not in default in the payment of the principal of or interest on any of the bonds, at a redemption price equal to 104 $\frac{1}{2}$ % of the face value of those redeemed plus accrued interest thereon to the redemption date, as follows: those maturing in 1961, 1962, and 1963 being subject to such redemption on October 1, 1954, and on any interest payment date thereafter; and those maturing in 1959 and 1960 being subject to such redemption on October 1, 1958, and on any interest payment date thereafter. If less than all of the callable bonds at the time outstanding and subject to redemption shall at any time be called in the inverse order of the numbers of those at the time outstanding and subject to redemption. Any such redemption shall be effected in the following manner:

(a) The city shall by resolution of its governing body call for redemption on a stated date when they are by their terms subject to redemption callable bonds bearing stated numbers, and shall recite in said resolution that it is not in default in the payment of the principal of or the interest on any of the bonds.

(b) The city shall cause to be published one time in a daily newspaper printed in the English language and published in the City of Birmingham, Alabama, and one time in such a newspaper published in the City of Mobile, Alabama, a notice stating the numbers of the callable bonds so called for redemption, stating that the callable bonds bearing such numbers will become due and payable on the date specified and at the applicable redemption price or prices, and stating that interest thereon will cease after said date; provided, that in the event no such newspaper is being published in one of said municipalities at the time when the city's governing body directs such publication to be made, then publication of such notice in a newspaper published in the other of said municipalities will suffice; and provided, further, that in the event such a newspaper is being published in neither of said municipalities at the time when the said governing body directs such publication to be made, then publication of such notice one time in a daily newspaper or a financial journal printed in the English language and published in the City of New York, New York shall be sufficient. Publication of such notice, as provided herein, shall be made not less than thirty (30) days prior to the redemption date. A newspaper published not less than six days during each calendar week in the locality specified shall be deemed to be a daily newspaper with the meaning of this paragraph (b).

(c) On or prior to the redemption date the city shall notify the bank at which the callable bonds are payable of the city's compliance with the requirements of paragraphs (a) and (b) of this section, and shall make available at said bank the total redemption price of the callable bonds so called.

Upon compliance with the foregoing requirements, 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 bonds, the callable bonds so called for redemption shall become due and payable on the redemption date and interest thereon shall thereafter cease. The bank at which the callable bonds are payable shall not be required to pay any coupon maturing on the redemption date which is applicable to any callable bonds so called for redemption unless the callable bond to which such coupon is applicable is also presented for payment; provided, that in the event such bank should pay any such coupon without payment of the applicable callable bond it shall not be liable to the holder of such applicable callable bond or to the city or to anyone whomsoever; and provided, further, that such 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 such bank that such holder is the owner of the coupon so presented and is not the owner of the callable bond to which such coupon is applicable.

Section 4. Execution of the Bonds. The bonds shall be signed in behalf of the city by its mayor and by the city clerk and treasurer, and the corporate seal of the city shall be affixed to each thereof by the city clerk, whose signature thereon shall constitute attestation of said seal. The coupons shall bear the facsimile signatures of the said mayor and city clerk and treasurer, which facsimile signatures shall be valid in all respects as if the said officers had signed the said coupons in person.

Section 5. Pledge. The bonds shall be general obligations of the city and for the payment of the principal thereof and interest thereon the full faith and credit of the city are hereby irrevocable pledged. As additional security for the payment of the principal of and interest on the bonds, there are further hereby irrevocable pledged all assessments that may hereafter be made against the properties specially benefited by the improvements, together with the proceeds from all such assessments, including the proceeds from the sale or redemption of any of said properties which may be sold by the city in enforcement of the lien of such assessments; and all liens which the city may now or hereafter have on the properties specially benefited by the improvements arising from the levy of said assessments are hereby transferred and assigned to the trustee appointed in paragraph 6 hereof, and to any successor trustee appointed hereunder, for the benefit of the holders of the bonds and the coupons with power to enforce the same either at law or in equity.

Section 6. Trustee. The First National Bank of Montgomery in the City of Montgomery in the State of Alabama (hereinafter sometimes called "the trustee") is hereby appointed and constituted as trustee for the holders of the bonds and coupons for the purpose of enforcing collection of the said assessments and of said liens securing the same; and said trustee is hereby authorized to enforce collection of said assessments and to enforce said liens by such actions as it may deem appropriate including the institution and prosecution of any proceedings at either law or in equity for collection of said assessments and enforcement of the said lien. Any such proceedings may be brought by the trustee in its own name, as trustee for the holders of the bonds and the coupons. The city agrees to pay any reasonable charges made by the trustee for its services as such trustee and to reimburse it for any expenses incurred by it in connection with such services, including (but without limitation to) counsel's or attorney's fees and court costs. The trustee may take any action as such trustee which it deems advisable in its discretion but shall not be required to take any action or institute any proceedings for collection of said assessments or enforcement of said lien unless requested in writing so to do by the holders of not less than 25% of the principal amount of the bonds at the time outstanding and unless such request in writing shall be accompanied by the furnishing of indemnity satisfactory to the trustee against any prospective expenses and liabilities which might be incurred by the trustee in taking the action requested. The trustee

The trustee may at any time resign and be discharged of the trust hereby created upon filing in the office of the city clerk of said city written notice specifying the effective date of such resignation. The trustee may at any time be removed as such trustee be written instrument signed by the holders of a majority of the bonds then outstanding and filed in the office of said city clerk and in the principal office of the trustee. In the event of any such resignation or removal, or if the trustee otherwise become incapable of acting, a successor trustee may be appointed by a written instrument signed by the holders of a majority of the bonds then outstanding and filed in the office of the said city clerk. Any successor trustee so appointed shall have all powers conferred herein on the trustee and shall be subject to removal in the same manner as herein provided for the trustee.

Section 7. Completion of the Improvements and Collection of Assessments. The city agrees that it will complete the construction of the improvements as promptly as may be feasible hereafter. The city further agrees that it will, to the extent that it has not already done so, take all such proceedings as may be necessary or appropriate to cause valid assessments to be made against the properties specially benefited by the improvements, all in the manner and to the extent provided by the improvement ordinance and under the laws of Alabama. The city agrees that it will undertake to collect all assessments that may be made pursuant to the provisions of the improvement ordinance and, in cases where the owner of any property subject to any such assessments shall elect to pay such assessment in installments in the manner authorized by the laws of Alabama, the city agrees to collect any such installments promptly as and when such installments become due and payable. In the event that any such assessment or any installment thereof shall remain unpaid for as long as one year after the same shall become due and payable, the city thereupon will take all steps necessary to enforce the lien of such assessment by sale of the property against which such assessment was made. All proceeds hereafter collected from each assessment that may be made pursuant to the improvement ordinance, including the proceeds of the sale or redemption of any property that may be sold by the city in enforcement of the lien of said assessment, shall be deposited by the city from time to time as collected in a special fund separate and apart from all other funds of the city. Said special fund shall constitute a trust fund for the benefit of the holders of the bonds and the coupons and shall be used solely for the payment thereof.

Section 8. Payment at Par. Each banking institution at which any of the bonds shall at any time be payable, by acceptance of its duties as a paying agent therefor, shall be construed to have agreed thereby with the holders of the bonds and the coupons that, out of the moneys supplied to it for that purpose, it will make all payments of the bonds and the coupons in bankable funds at par and without deduction for exchange, fees or expenses. The city agrees with the holders of the bonds and the coupons and with each such banking institution that it will pay all charges for exchange, fees, or expenses which may be made by any such paying agent in the making of such payments at par in bankable funds.

Section 9. This Ordinance a Contract. The provisions of this ordinance shall constitute a contract between the city and each holder of the bonds and coupons.

Section 10. Severability. 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 11. Form of Bonds and Coupons. The bonds and the coupons applicable thereto shall be in substantially the following forms with appropriate changes therein to conform with the provisions hereof:

(Form of Bond)

No. _____

\$1,000

UNITED STATES OF AMERICA

STATE OF ALABAMA

CITY OF PRICHARD

PUBLIC IMPROVEMENT BOND, SERIES 1953

On the 1st day of October, 1953, for value received, the City of Prichard, a municipal corporation in the State of Alabama, promises to pay to the bearer hereof the sum of

ONE THOUSAND DOLLARS

with interest thereon at a rate of 4-1/2% per annum, payable semi-annually on April 1 and October 1 in each year until and at the maturity hereof upon surrender of the appropriate annexed coupons as the same respectively mature. Both the principal hereof and interest hereon shall be payable in lawful money of the United States of America at the principal office of the First National Bank of Montgomery in the City of Montgomery in the State of Alabama.

This bond is one of an authorized issue aggregating \$900,000 in principal amount and has been issued pursuant to the provisions of Chapter 6 of Title 37 of the Code of Alabama of 1940, as amended, and Ordinance No. 591 of the city for the purpose of providing funds to pay the cost of constructing certain public improvements authorized under the provisions of the city's Ordinance No. 584, as amended. The indebtedness evidenced by this bond 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 and by the ordinance under which said bonds are authorized to be issued, the city has further pledged for the benefit of the holders of the said bonds all of the assessments that may be hereafter made against the properties improved under the said Ordinance No. 584, as amended, together with the proceeds of said assessments, including the proceeds resulting from enforcement of the liens securing such assessments, and has assigned for the benefit of the holders of said bonds and the interest coupons applicable thereto all liens securing such assessments.

Those of the bonds maturing in 1959 and thereafter are subject to redemption prior to maturity, at the option of the city, after not less than thirty days' prior published notice, at a redemption price equal to 104-1/2% of the face value of those redeemed plus accrued interest thereon to the redemption date, as follows: those maturing in 1961, 1962, and 1963 being subject to such redemption on October 1, 1954, and on any interest payment date thereafter. If less than all of the bonds at the time outstanding and subject to redemption shall at any time be called for redemption, such bonds shall be called in the inverse order of the numbers of those at the time outstanding and subject to redemption.

It is hereby certified and recited that all conditions, actions and things required by the constitution or laws of Alabama

to exist, be performed or happen precedent to or in the issuance of this bond and the creation of the indebtedness evidenced hereby exist, have been performed and have happened and that the indebtedness of the city, was when incurred and now is within every debt and other limit prescribed by the constitution and laws of Alabama.

IN WITNESS WHEREOF, the city has caused this bond to be executed in its behalf by its mayor and by its city clerk and treasurer, has caused the seal of the city to be hereunto affixed by its city clerk, whose signature hereon shall constitute attestation of said seal, has caused the annexed interest coupons to be executed with the facsimile signatures of the said mayor and city clerk and treasurer, and has caused this bond to be dated October 1, 1953.

CITY OF PRICHARD

By _____
Its Mayor

By _____
Its City Clerk and Treasurer

(Form of Coupon)

No. _____

\$22.50

On the 1st day of _____, 19____, the City of Prichard in the State of Alabama will pay to the bearer hereof at the principal office of The First National Bank of Montgomery, in the City of Montgomery in the State of Alabama, Twenty-two and 50/100 Dollars in lawful money of the United States of America, being interest then due on its Public Improvement Bond, Series 1953, dated October 1, 1953, and numbered _____.

City of Prichard

By _____
Its Mayor

By _____
Its City Clerk and Treasurer

There shall be inserted in each of the callable bonds, immediately following the maturity date thereof, the following:

"(unless this bond shall have been duly called for prior payment),"

Passed and approved this 28th day of September, 1953.

Mayor

Authenticated:

City Clerk