

ORDINANCE NO. 1539

**AN ORDINANCE AUTHORIZING THE ISSUANCE
OF THE CITY'S \$1,780,000 PRINCIPAL
AMOUNT OF UTILITIES REVENUE WARRANTS,
SERIES 2015, DATED MAY 14, 2015**

BE IT ORDAINED by the City Council (herein called the "Council") of the City of Fairhope (herein called the "City"), in the State of Alabama, as follows:

Section 1. Findings. After investigation duly made by it and based upon the information obtained from such investigation, the Council hereby makes the following findings and declares the following statements to be true:

(a) in order to achieve a savings in debt service payments, it is necessary and desirable to refund, on a current basis, the City's Utilities Revenue Warrants, Series 2005, dated March 1, 2005 (herein called the "2005 Warrants"), the proceeds of which were used to make improvements to its water works and sanitary sewer system (which system, together with the City's natural gas distribution system and its electric distribution system, are herein together called the "Systems") and to refund warrants issued for such purpose; and

(b) to provide for the said refunding and to pay issuance expenses, it will be necessary that the Series 2015 Warrants be issued as authorized in this ordinance and pursuant to the applicable provisions contained in the Eighth Supplemental Indenture authorized in Section 6 of this ordinance.

Section 2. Authorization of the Warrants. Pursuant to the applicable provisions of the constitution and laws of Alabama, including particularly Section 11-47-2, as amended, and for the purpose of providing funds for the purposes referred to in Section 1 of this ordinance, there are hereby authorized to be issued by the City \$1,780,000 aggregate principal amount of its Utilities Revenue Warrants, Series 2015 (herein called the "Warrants"), under the terms, conditions and provisions set out in the Eighth Supplemental Indenture (herein called the "Eighth Supplemental Indenture") authorized in Section 6 of this ordinance. All of the provisions thereof respecting the Warrants are hereby adopted as a part of this ordinance.

Section 3. Source of Payment of the Warrants and Pledge Therefor. The obligation evidenced and ordered paid by the Warrants shall be a limited obligation of the City payable solely out of the revenues from the operation of the Systems as specified in the Trust Indenture hereinafter referred to, and shall not constitute a general obligation of the City or be subject to any charge on or against its general funds, its taxing powers, or its constitutional debt limit. None of the agreements, representations or warranties made or implied in this ordinance, or in the issuance of the Warrants, shall ever impose any personal or pecuniary liability or charge upon the City, whether before or after any breach by the City of any such agreement, representation or warranty, except with the moneys herein provided. Nothing contained in this section, however, shall relieve the City from the performance of the several covenants and representations on its part herein contained.

Section 4. Series 2015 Warrants to Constitute Additional Warrants Issued Under the 1996 Indenture Covering the Systems. The Warrants shall be issued as additional warrants under the reserved power contained in Section 8.2 of that certain Trust Indenture between the City and Regions Bank, dated November 1, 1996, as supplemented from time to time (herein called the "1996 Indenture"), and shall be entitled to and shall have the pledges and other rights and privileges accorded to the obligations issued under that document and each supplement thereto, including specifically (but without limiting the generality thereof) the pledge made in the 1996 Indenture for payment of the principal of and interest on all obligations issued thereunder on a parity with all other obligations that may at any time be issued pursuant to its provisions.

Section 5. Resolution Complying With the Requirements of Section 8.2(b) of the 1996 Indenture. In order to comply with the requirements of Section 8.2(b) of the 1996 Indenture preliminary to the issuance of the Warrants as additional warrants thereunder, the Council has adopted, at the same meeting at which this ordinance is adopted, a resolution containing the recitations required in Section 8.2(b) of the 1996 Indenture to be made by the City.

Section 6. Authorization of Eighth Supplemental Indenture. The Mayor is hereby authorized to execute and deliver, in the name and behalf of the City, the Eighth Supplemental Indenture in substantially the form presented to the meeting of the Council at which this ordinance is adopted (which form shall be included in the records of the City and which is made a part of this ordinance as if set out in full herein), and the City Clerk is hereby authorized and directed to affix thereto and attest thereon the corporate seal of the City. Upon full execution of the Eighth Supplemental Indenture, the Mayor is authorized and directed to deliver it to the trustee thereunder. All provisions of the Eighth Supplemental Indenture are hereby adopted as a part of this ordinance to the same extent as if they were set out in full herein.

Section 7. Sale of the Warrants; Delivery Thereof and Use of Proceeds Therefrom. The Warrants are hereby sold to Compass Mortgage Corporation (herein called the "Purchaser"), at a purchase price equal to \$1,780,000 (the par amount thereof), plus accrued interest thereon (if any) from their date to the date of payment therefor. The Mayor and the City Clerk are hereby directed to consummate the execution, sealing and attestation of the Warrants and to deliver them to the Purchaser upon payment to the City of the purchase price therefor. Simultaneously with such delivery, the City Treasurer is authorized and directed to pay the proceeds from the said sale to the Trustee who shall apply them in the manner and for the purposes set out in Section 2.5 of the Eighth Supplemental Indenture.

Section 8. Compliance with Certain Requirements of the Code. The City will comply with all conditions to and requirements for the exemption from gross income for federal income taxation of the interest income on the Warrants imposed by Section 103 of the Internal Revenue Code of 1986, as amended (herein called the "Code"). Without limiting the generality of the foregoing,

(a) the City will not apply the proceeds from the Warrants in a manner that would cause any of the Warrants to be a "private activity bond" within the meaning of Section 141(a) of the Code, and

(b) the City will comply with the requirements of Section 148 of the Code in order that the Warrants will not be "arbitrage bonds" within the meaning of said Section 148.

Section 9. Payment at Par. All remittances of principal of and interest on the Warrants to the holders thereof shall be made at par without any deduction for exchange or other costs, fees or expenses. The bank or banks at which the Warrants shall at any time be payable shall be considered by acceptance of their duties hereunder to have agreed that they will make or cause to be made remittances of principal of and interest on the Warrants out of the moneys provided for that purpose, in bankable funds at par without any deduction for exchange or other costs, fees or expenses. The City will pay to such bank or banks all reasonable charges made and expenses incurred by them in making such remittances in bankable funds at par.

Section 10. Call for Redemption. The Council hereby calls the Series 2005 Warrants for redemption on June 16, 2015, said redemption to be at and for a redemption price equal to 100% of the principal amount redeemed plus accrued interest thereon to the date fixed for redemption. The Mayor is hereby authorized to execute for and on behalf of the City an Escrow Trust Agreement providing for the said refunding and the City Clerk is hereby authorized and directed to affix the seal of the City thereto and to attest the same.

Section 11. Constitutes Contract. The provisions of this ordinance shall constitute a contract between the City and each holder of the Warrants issued hereunder. Whenever all the Warrants and the interest thereon shall have been paid in full or provision made for the payment thereof as provided in the Trust Indenture, and all the agreements on the part of the City herein and therein contained with respect thereto shall have been performed, then upon the happening of such events, the obligations of the City hereunder shall thereupon cease.

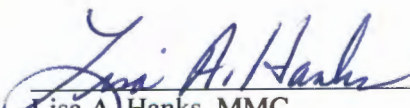
Section 12. Severability. The various provisions of this ordinance are hereby declared to be severable. In the event any provision hereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this ordinance.

ADOPTED THIS 11TH DAY OF MAY, 2015



Timothy M. Kant, Mayor

Attest



Lisa A. Hanks, MMC
City Clerk