

ORDINANCE NO. 2015 - 004

AN ORDINANCE GRANTING A FRANCHISE TO THE WATER WORKS BOARD OF THE CITY OF VINCENT AND AUTHORIZING THE TRANSFER AND CONVEYANCE OF THE EXISTING WATER WORKS PLANT AND SYSTEM

BE IT ORDAINED by the Mayor and the City Council of the City of Vincent, Alabama, as follows:

Section 1. Pursuant to Article XII, Section 228, Constitution of Alabama, 1901, and § 11-49-1, Code of Ala. 1975, as amended, there is hereby granted to the Water Works Board of the City of Vincent (the "Board") for a period of thirty (30) years, the right, privilege, authority, consent and franchise to acquire, own, maintain, construct, enlarge, extend, improve and operate within the City of Vincent, Alabama (the "City") a water works plant, a water distribution system and treatment plant(s), or any of them, together with the right, privilege, authority, consent, and franchise to lay, construct and maintain pipes, mains and other conductors, fixtures and related appurtenances in, along, across and under the streets, avenues, alleys, public ways and other public places in the City for the purpose of conveying, collecting and distributing water in and through the City and of supplying water to the City and the surrounding territory and the inhabitants thereof, and to repair, renew, relay and extend such pipes, mains, conductors, fixtures and related appurtenances, and to make all excavations necessary therefor.

Section 2. The Board by accepting this franchise agrees that it will, upon making any excavation of the streets, avenues, alleys, public ways, and other public places of the City, restore the surface or paving at the point of such excavation in substantially the same condition as before such work was done, all as promptly as may be practical and within a reasonable length of time thereafter.

Section 3. This franchise is not exclusive and the City reserves the right to grant rights or franchises to others, and reserves its own right as a municipality to use the road rights of ways for the same or different purposes allowed the Board hereunder, by franchise, permit or otherwise.

Section 4. The right, privilege, authority, consent, and franchise hereby granted may be exercised by the Board or any successors or assigns of the Board and may be assigned, mortgaged or conveyed in trust by the Board as security for any bonds or other obligations thereafter issued by it, all subject nevertheless to the conditions and obligations herein contained.

Section 5. The City hereby grants this Franchise to the Board without any requirement as to permit or fee. The City reserves the right to amend this ordinance to assess the Board a franchise fee or privilege tax, license tax or utility tax, in an amount not to exceed that which is provided by law.

Section 6. When this Franchise shall have been accepted by the Board, it shall constitute a contract between the City and the Board. The Mayor is authorized and directed to execute in the name of and on behalf of the City such documents and to take such other actions as may be necessary to carry out the terms of this Franchise. The City Clerk is authorized and directed to attest the

Mayor's signature to such documents and to affix the official seal of the City to such documents.

Section 7. Any ordinances heretofore approved and adopted by the City granting the right, privilege, authority, consent and franchise to acquire, own, maintain, construct, or enlarge within the City a water system and a water treatment plant(s), or any of them, together with the right, privilege, authority, consent, and franchise to lay, construct and maintain pipes, mains and other conductors, fixtures and related appurtenances in, along across and under the streets, avenues, alleys, public ways and other public places in the City for the purpose of conveying and collecting water in and through the City, and to repair, renew, relay and extend such pipes, mains, conductors, fixtures and related appurtenances, and to make all excavations necessary therefor, are hereby rescinded, revoked and cancelled.

Section 8. As a result of the automatic dissolution of a previous water works board under the provisions of § 11-50-316(b), Code of Ala. 1975, as amended, the City now owns a water works plant and system, and associated property and rights, including but not limited to engineering reports; drawings, plans, and specifications; contracts and service agreements; accounts receivable; lands, leases, buildings, franchises, easements, rights of way; wells, reservoirs, tanks, pumps, mains; vehicles and equipment; and any and all other property, real, personal, or mixed, used or useful in connection with said system (the "Water System"). The City Council finds that it is in the best interest of the City that the Water System be transferred and conveyed to the Board.

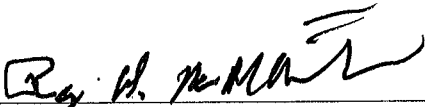
Section 9. Pursuant to §§ 11-50-13 and -14, and § 11-63-2(a)(2), Code of Ala. 1975, as amended, the City transfers and conveys the Water System to the Board. The Mayor is authorized and directed to execute in the name of and on behalf of the City a document to effect such transfer and conveyance, in form substantially as that attached to and incorporated in this Ordinance, and to take such other actions and execute such other documents as may be necessary to carry out the terms of this transfer and conveyance. The City Clerk is authorized and directed to attest the Mayor's signature to such documents and to affix the official seal of the City to such documents.

Section 10. All other ordinances, resolutions and orders or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

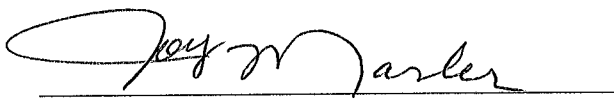
ORDAINED and ADOPTED this 17th day of November, 2015.



THE CITY OF VINCENT, ALABAMA


By Ray H. McAllister, Mayor

ATTEST:


Joy Marler, City Clerk

Ordinance Number: 2015 - 004

**CITY OF VINCENT
CLERK'S CERTIFICATION OF ORDINANCE PUBLICATION**

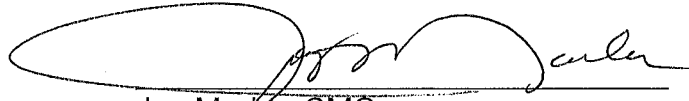
I, Joy Marler, City Clerk of the City of Vincent, Alabama, hereby certify that the above and foregoing is a true and correct copy of Ordinance No. 2015 – 004 An Ordinance Granting a Franchise to the Water Works Board of the City of Vincent and Authorizing the Transfer and Conveyance of the Existing Water Works Plant and System, as adopted by the Vincent City Council at a meeting on the 17th day of November, 2015.

I hereby certify that the above and foregoing Ordinance No. 2015-004 was published by me by posting copies thereof on the 24th day of November, 2015, in three public places within the limits of the City of Vincent, to-wit, the City Hall, Vincent Water Board and Vincent Library in the City, and that said copies remained so posted for a period of (30) thirty days.

In Witness Whereof, I have hereunto set my hand and affixed the official corporate seal of the City of Vincent, Alabama this 23rd day of November, 2015.

SEAL




Joy Marler, CMC
Vincent City Clerk