

IN THE SUPERIOR COURT OF BARROW COUNTY

STATE OF GEORGIA

2020 AUG 31 PM 2: 20

REGINA B. MCINTYRE, CLERK

STATE OF GEORGIA,)
)
 Plaintiff,)
)
 v.)
)
 CITY OF AUBURN URBAN)
 REDEVELOPMENT AGENCY and)
 CITY OF AUBURN, GEORGIA,)
)
 Defendants.)

CIVIL ACTION NO. 20-CV-1001-M
BOND VALIDATION

VALIDATION ORDER

The above-entitled cause coming on for a hearing pursuant to an order heretofore granted, and it appearing from an examination and inspection of the proceedings concerning the City of Auburn Urban Redevelopment Agency Revenue Bonds (City of Auburn Projects), Series 2020, in the aggregate principal amount of \$10,745,000 (the "Bonds"), described in the pleadings of this cause, that the same are regular and in due form, and after inspection of the record and hearing the evidence on all matters bearing upon the Bonds, the right of Defendant City of Auburn Urban Redevelopment Agency (the "Issuer") to issue the Bonds, and the security therefor;

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendants named are proper party defendants and that pursuant to the Urban Redevelopment Law of Georgia (O.C.G.A. § 36-61-1, *et seq.*) (the "Urban Redevelopment Law") and in particular § 36-61-12(f), which provides for conclusive judicial determinations in any "suit action, or proceeding involving the validity or enforceability of any bond issued under [the Urban Redevelopment Law] or the security therefor" that

jurisdiction of this proceeding is vested in this Court and that this Court has jurisdiction over the subject matter of this proceeding and the parties thereto are properly, legally and constitutionally before this Court; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant Issuer was duly created and is validly existing pursuant to the Urban Redevelopment Law and an activating resolution of the Mayor and City Council of the City of Auburn duly adopted on June 2, 2011, as confirmed and amended on September 5, 2019, and as further confirmed and amended on January 2, 2020, and that the Urban Redevelopment Law and the activating resolutions have been duly enacted and approved and are legal and valid in all respects, and all rights, powers, authorities and duties therein granted and imposed are legal in all respects, and pursuant thereto the Issuer was and is authorized to issue the Bonds for the purposes and in the manner stated in the pleadings hereto, and that the Defendant Issuer was and is taking all proper and necessary steps in issuing and securing the Bonds; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant City is a municipal corporation, legally created and validly existing pursuant to the Constitution and laws of the State of Georgia; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AN ADJUDGED as a matter of fact and a matter of law, that the Defendant City had and has the authority under the Urban Redevelopment Law and by resolutions adopted June 2, 2011, as confirmed and amended on September 5, 2019, and as further confirmed and amended on January 2, 2020, has (a) properly declared that one or more pockets of blight exist within the corporate boundaries of the Defendant City, and (b) properly identified the Auburn Urban Redevelopment Area (the “Urban Redevelopment Area”). A certified copy of the January 2, 2020 Resolution, with an exhibit

identifying the property located within the Urban Redevelopment Area, forms a part of the petition to the District Attorney in this cause and is incorporated by reference herein; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant City properly held a public hearing on January 2, 2020 on a proposed urban redevelopment plan, and pursuant to that hearing had the authority and, by resolution adopted on January 2, 2020, has properly approved the “Auburn Urban Redevelopment Plan”; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant City had and has the authority and, through the activating resolutions, has properly elected to have its “urban redevelopment powers,” as that term is used in the Urban Redevelopment Law, exercised by the Defendant Issuer; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Bonds are to be issued for the purpose of financing the costs of the acquisition, construction, reconstruction and installation of this urban redevelopment project contemplated in the Redevelopment Area, being the Project referred to in the Petition and Complaint (the “Project”), and that such purpose constitutes the financing of an “urban redevelopment project” within the Redevelopment Area; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that all portions of the Project to be financed with proceeds of the Bonds will be located in City of Auburn, Georgia and within the Redevelopment Area, and, therefore, in accordance with Article VI of the Constitution of the State of Georgia of 1983, this proceeding is subject to the jurisdiction of this Court; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant Issuer has the right, power and authority by virtue of the Constitution and laws of the State of Georgia to adopt the resolution, dated August 11, 2020 (the “Bond Resolution”), authorizing, among other things, the issuance of the Bonds and the execution and delivery of the Intergovernmental Agreement (hereinafter referred to), a certified copy of which Bond Resolution forms a part of the Petition and Complaint and is incorporated herein and made a part hereof, and that Defendant Issuer has the right, power and authority to enter into and to execute, deliver and perform its obligations under the Intergovernmental Agreement and the Bond Resolution; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant Issuer has properly adopted the Bond Resolution, and that the Bond Resolution constitutes the legal, valid, binding and enforceable obligation of the Defendant Issuer; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that Article IX, Section III, Paragraph I of the Georgia Constitution authorizes, among other things, the Defendant City to contract with the Defendant Issuer, for a period not exceeding fifty years, for the provision of services, or for the provision or separate use of facilities or equipment, provided that such contract deals with activities, services or facilities which the contracting parties are authorized by law to undertake or to provide; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant Issuer has properly authorized the execution and delivery of the Installment Sale Agreement (the “Intergovernmental Agreement”), between the Defendant Issuer and the Defendant City referred to in and made a part of the pleadings of this cause, and, under the Intergovernmental Agreement, the Defendant Issuer will

issue the Bonds and the Defendant City will agree to pay to the Defendant Issuer amounts sufficient to pay the debt service on the Bonds, and that the Intergovernmental Agreement when executed and delivered will constitute the legal, valid, binding and enforceable obligation of the Defendant Issuer and the Defendant City except that the enforceability thereof may be subject to (a) the exercise of judicial discretion in accordance with general principals of equity, and (b) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant Issuer has the right, power and authority to enter into the obligations, agreements and conditions contained in the Bond Resolution and the Intergovernmental Agreement, and all their terms, agreements and conditions are hereby in each and every respect confirmed and validated; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant City has the right, power and authority by virtue of the Constitution and laws of the State of Georgia to execute, deliver and perform its obligations under the Intergovernmental Agreement; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant City has properly authorized the execution and delivery of the Intergovernmental Agreement, and the Intergovernmental Agreement when executed and delivered will constitute the legal, valid, binding and enforceable obligation of the Defendant City; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant Issuer is taking all proper and necessary

steps to issue the Bonds, and all of the acts and doings of the Defendant Issuer set forth in the pleadings are hereby ratified and confirmed; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the pledge of and lien on the payments under the Intergovernmental Agreement shall be valid and binding against the Defendant Issuer and the Defendant City and against all parties having claims against the Defendant Issuer and the Defendant City, whether such claims arise in the Intergovernmental Agreement, in tort or otherwise and irrespective of whether such parties have notice thereof; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant City's obligation to make the payments required under the Intergovernmental Agreement shall constitute a general obligation of the Defendant City for which its full faith and credit are pledged, and that the Defendant City's obligation to make the payments required under the Intergovernmental Agreement shall be absolute and unconditional as long as the Bonds remains outstanding; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law that the Defendant City's obligation to make payments required by the Intergovernmental Agreement through the assessment, levy and collection of annual ad valorem taxes on all taxable property located within the territorial limits of the Defendant City, at such rate or rates as may be necessary to produce in each year revenues that will be sufficient to fulfill the City's obligations under the Intergovernmental Agreement, constitutes the legal, valid, binding and enforceable obligation of the Defendant City and that the same and all acts of the Defendant City are hereby confirmed and validated in each and every respect; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Bonds will not constitute a general obligation of the State of Georgia, the Defendant City, or any political subdivision of the State of Georgia within the meaning of any constitutional or statutory limitation upon indebtedness. Neither the State of Georgia, the Defendant City nor any political subdivision of the State of Georgia shall be subject to any pecuniary liability thereon. No owner of the Bonds shall ever have the right directly to compel the exercise of the taxing power of the State of Georgia, the Defendant City or any political subdivision of the State of Georgia to pay the same or the interest thereon. The principal of and interest on the Bonds are payable solely from moneys derived from payments under the Intergovernmental Agreement, which payment obligation shall be assigned for the payment of the Series 2020 Bonds and shall be enforceable for the benefit of the holders thereof; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the undertaking for which the Bonds are to be issued, the use of the proceeds of the Bonds for the purposes set forth in the Bond Resolution, the Intergovernmental Agreement and herein, the issuance of the Bonds and the security therefor are sound, feasible and reasonable; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Bonds and the Intergovernmental Agreement and the security therefor be, and the same are hereby in each and every respect, confirmed and validated, and the Defendant Issuer is authorized and empowered to issue the Bonds, and when the Bonds are so issued the same shall be legal, valid, binding and enforceable limited obligations of the Defendant Issuer; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Defendant Issuer has effectively waived the performance audit and performance review requirements of O.C.G.A. § 36-82-100 with respect to the Bonds; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the parties to this proceeding have duly and lawfully waived the requirement that separate findings of fact and conclusions of law be entered pursuant to O.C.G.A. § 9-11-52; and

IT IS FURTHER DETERMINED, DECLARED, ORDERED AND ADJUDGED, as a matter of fact and as a matter of law, that the Clerk of the Superior Court of Barrow County is authorized to execute the certificate of validation upon each of the Bonds and that the provisions of the Bond Resolution regarding the issuance of the Bonds in exchange for Bonds previously issued are lawful and proper, and said Clerk of the Superior Court of Barrow County is hereby authorized and directed to execute a certificate of validation upon each such Bond issued in exchange for a Bond previously issued upon the written request of the Bond Registrar or the Defendant Issuer specifying that such Bonds are being issued in exchange for one of the Bonds issued and delivered to the initial purchaser thereof or one of the Bonds previously issued in exchange therefor.

Let the Defendants pay the costs of this proceeding from the proceeds of the sale of the Bonds.

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IN THE SUPERIOR COURT OF BARROW COUNTY
STATE OF GEORGIA

FILED
SUPERIOR COURT
BARROW COUNTY, GA

2020 AUG 31 PM 2:21

STATE OF GEORGIA, Plaintiff,)

CIVIL ACTION FILE NO. 20-CU-1001-M

vs.)

BOND VALIDATION

CITY OF AUBURN URBAN)

REDEVELOPMENT AGENCY and)

CITY OF AUBURN, GEORGIA,)

Defendants.)

Signature Page of VALIDATION ORDER

This 31st day of August, 2020.



JUDGE, SUPERIOR COURT,
BARROW COUNTY, GEORGIA
Currie M. Mingledorff II

Prepared by:

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I FURTHER CERTIFY that no intervention or objection was raised or filed in connection with the validation of the Bonds referred to in said record and that the validation order has been entered.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of said Court this the 31 day of August, 2020.

Suzan Burden
Dep. Clerk, Superior Court
Barrow County, Georgia