

IN THE SUPERIOR COURT OF DEKALB COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,)	
)	
Plaintiff,)	
)	CIVIL ACTION FILE NO. _____
v.)	
)	BOND VALIDATION
CITY OF CLARKSTON, GEORGIA,)	
)	
Defendant.)	

PETITION AND COMPLAINT

TO THE SUPERIOR COURT OF SAID COUNTY:

THE STATE OF GEORGIA, by and through Sherry Boston, District Attorney of the Stone Mountain Judicial Circuit, in which City of Clarkston, Georgia (the “City”) is located, files this petition and complaint against the City, as defendant, which is charged with managing the affairs of the City, as defendant, and respectfully shows the following facts, to-wit:

1.

The City is a municipal corporation organized and existing under the laws of the State of Georgia and is subject to the jurisdiction of this Court. The City desires to issue the Bond hereinafter described.

2.

At an election duly called and held in DeKalb County on the 7th day of November, 2017, a majority of the registered voters of the County and the City voting in said election (the “Election”) voted in favor of (a) the issuance by the City of its general obligation debt in an aggregate principal amount of up to \$8,735,000 (the “Debt”) to finance all or a portion

of the cost of (i) certain capital outlay projects (the “Projects”), (ii) capitalized interest on the Debt and (iii) issuing the Debt and (b) the authorization of a one percent special purpose local option sales tax (the “Sales and Use Tax”) for a period of time not to exceed six years.

3.

The Debt and the security for the Debt were validated by this Court on January 9, 2018 (Civil Action File No. 17CV12681-7).

4.

The City has previously issued a portion of the authorized Debt in the form of \$5,150,000 in the original principal amount of its General Obligation Sales Tax Bond, Series 2018 (the “Series 2018 Bond”).

5.

Article IX, Section V, Paragraph III of the Constitution of the State of Georgia and O.C.G.A. Section 36-82-1(e) permit the City to provide for the refunding of outstanding bonded indebtedness without the necessity of a referendum being held therefor; provided that neither the term of the original debt is extended nor the interest rate of the original debt is increased, and further provided that the principal amount of any debt issued in connection with such refunding may exceed the principal amount being refunded only to the extent necessary to effectuate a refunding and to reduce the total principal and interest payment requirements over the remaining term of the original issue and further provided that the proceeds derived from the sale of the refunding bonds, together with any earnings and increments derived therefrom, will be sufficient to provide for payment of the principal of, interest, and premium, if any, on the bond being refunded and shall be deposited in an irrevocable trust fund created for that purpose.

6.

The City has determined that it is in the best interest of the City to refund the Series 2018 Bond (the “Refunded Bond”). The Refunded Bond bears interest at the rate of 2.65%, matures on June 1, 2024, and is subject to mandatory prepayment on June 1 in each of the years 2020, 2021, 2022 and 2023; and the City will pay the June 1, 2020 mandatory prepayment amount prior to the issuance of the Bond (hereafter defined). Upon the issuance of the Bond, the Refunded Bond will be outstanding in the principal amount of \$3,670,000.

7.

The City has further determined that the best method of financing the cost of such refunding is through the issuance of its \$3,697,000 General Obligation Sales Tax Refunding Bond, Series 2020B (the “Bond”).

8.

The Bond now proposed to be issued was duly authorized pursuant to the Constitution and laws of the State of Georgia, and by virtue of a resolution of the City adopted on May 5, 2020 (the “Bond Resolution”). The terms of the Bond comply with the Constitution and laws of the State of Georgia and are set forth in the Bond Resolution. A certified copy of the Bond Resolution forms a part of the notice served on your District Attorney (the “Notice”) with acknowledgment of service thereon, which Notice is attached hereto as Exhibit A and is, by this reference thereto, made a part hereof.

9.

The exact terms of the Bond shall in all cases comply with Article IX, Section V, Paragraph III of the Constitution of the State of Georgia and O.C.G.A. Section 36-82-1(e), as set forth in the Bond Resolution.

10.

The Sales and Use Tax has been properly authorized and is in full force and effect, and the proceeds thereof may be used to pay the principal of and interest on the Bond as the same become due and payable. During each year in which principal or interest on the Bond comes due, the City anticipates that it will receive net Sales and Use Tax proceeds fully sufficient to satisfy its liability on the Bond.

11.

In addition, as required by Article IX, Section V, Paragraph VI of the Constitution of the State of Georgia, the Bond Resolution provides for the assessment and collection of an annual tax sufficient in amount to pay the principal of and interest on the Bond. The City, under the terms of the Bond Resolution, has levied a continuing direct annual tax upon all taxable property subject to taxation for general obligation bond purposes within the boundaries of the City and within any extensions of said boundaries, sufficient to produce the sums necessary to make all payments of principal and interest with respect to the Bond as such sums become due and payable, which sums are, pursuant to the Bond Resolution, irrevocably pledged to the payment of the principal and the interest on the Bond as the same mature and become payable. When the Bond is issued, the Bond will be the valid and binding general obligation of the City.

12.

The proceeds of the Bond used to pay the Refunded Bond will be sufficient to pay, and will be used to pay, the principal of and interest on the Refunded Bond on the redemption date, which is the date of issuance of the Bond.

13.

The City, pursuant to the laws of the State of Georgia, particularly O.C.G.A. Section 36-82-100 (the "Audit Statute"), has elected to waive the independent performance audit

or performance review requirement with respect to the Bond. However, the City will ensure that the proceeds of the Bond are expended efficiently and economically as intended by the Audit Statute.

14.

Your District Attorney, pursuant to the laws of the State of Georgia, particularly the Official Code of Georgia Annotated, Section 9-11-52, waives, in the name of the State of Georgia, the requirement that separate findings of fact and conclusions of law be entered in this action.

WHEREFORE, within twenty days from the date of the service of the Notice hereof, your District Attorney, pursuant to the laws of the State of Georgia, prays:

a. That an order be passed requiring the City, by and through its proper officers, to show cause, if any exist, at such time and place, whether at term time or in Chambers, within the time prescribed by law, as the Judge of this Court may direct, why the Bonds and the security therefor (including the Sales and Use Tax and ad valorem property tax) should not be confirmed and validated;

b. That this petition and complaint and such order be served upon the City, in the manner provided by law;

c. That this Court adjudicate that the validation notice for the Bond containing the waiver provisions set forth in the Audit Statute is sufficient to exempt the City from the Independent Audit; and

d. That the Bond and the security therefor (including the Sales and Use Tax and ad valorem property tax) be confirmed and validated in all respects.

This _____ day of May, 2020

Sherry Boston, District Attorney
Stone Mountain Judicial Circuit

STATE OF GEORGIA

COUNTY OF DEKALB

TO THE HONORABLE SHERRY BOSTON., DISTRICT ATTORNEY OF
THE STONE MOUNTAIN JUDICIAL CIRCUIT OF THE STATE OF GEORGIA:

YOU ARE HEREBY NOTIFIED that the City Council of the City of Clarkston, Georgia (the “City”), a municipal corporation of the State of Georgia, duly created and existing pursuant to the Constitution and laws of the State of Georgia, in open meeting duly called and assembled on May 5, 2020, adopted a Resolution (the “Bond Resolution”) authorizing the issuance of its General Obligation Sales Tax Refunding Bond, Series 2020B (the “Bond”) in the principal amount \$3,697,000. A certified copy of the Bond Resolution is attached hereto, made a part hereof and marked Exhibit 1. The exact terms of the Bond, including, but not limited to, the date, maturity date, interest rate and prepayment provisions, are set forth in the Bond Resolution. The Bond is being issued to refund the City’s General Obligation Sales Tax Bond, Series 2018 and to pay the costs of issuing the Bond.

YOU ARE HEREBY FURTHER NOTIFIED that the City has waived the performance audit referred to in O.C.G.A. Section 36-82-100.

YOU ARE HEREBY FURTHER NOTIFIED that all the requirements under the constitution and laws of the State of Georgia pertaining to the issuance of the Bond without a referendum have been satisfied as more fully set forth in the Bond Resolution.

YOU ARE HEREBY FURTHER NOTIFIED of the action of the City, in accordance with the law pertaining to validation and confirmation of the proposed Bond, and request is hereby made that you take immediate and proper steps for the confirmation and validation of the Bond, and the security therefor (including the county one percent special purpose local option sales tax and ad valorem property tax), as provided by law.

IN WITNESS WHEREOF, the City has caused this notice to be signed and sealed
in its name on this _____ day of May, 2020.

CITY OF CLARKSTON, GEORGIA

(SEAL)

By: _____
Vice Mayor

Attest:

City Clerk

STATE OF GEORGIA

COUNTY OF DEKALB

I, Sherry Boston., do hereby acknowledge personal service of the above and foregoing notice; copy received; any and all other further service waived, this _____ day of May, 2020.

Sherry Boston, District Attorney
Stone Mountain Judicial Circuit

IN THE SUPERIOR COURT OF DEKALB COUNTY

STATE OF GEORGIA

STATE OF GEORGIA,)
)
 Plaintiff,)
) CIVIL ACTION FILE NO. _____
 v.)
) BOND VALIDATION
 CITY OF CLARKSTON, GEORGIA,)
)
 Defendant.)

ORDER

The foregoing petition and complaint having been presented and read, same is hereby sanctioned. Let it be filed and let the same and this order be served upon the defendant, City of Clarkston, Georgia (the “City”), in the manner provided by law.

IT IS ORDERED that because this matter is an essential function, the defendant, City, by its proper officers, show cause before the Judge of the Superior Court of DeKalb County, Georgia, and at the courthouse in the City of Decatur, Georgia, at __:____ __.m., on the _____ day of June, 2020 why the prayers of the petition and complaint should not be granted, and why the City of Clarkston, Georgia General Obligation Sales Tax Refunding Bond, Series 2020B in the principal amount of \$3,697,000 and the security for the payment thereof (including the Sales and Use Tax and ad valorem property tax), described in the petition and complaint, should not be confirmed and validated as provided by law.

IT IS FURTHER ORDERED that the Clerk of the Superior Court of DeKalb County, Georgia, publish in the official newspaper in which sheriff’s advertisements are published for City, once a week for two successive weeks next preceding the week of the hearing

of this cause, a notice to the public that on the day specified above said cause will be heard that the validation of the Bond and the security will be determined and that any citizen of the State of Georgia residing in the City or any person wherever residing, who may have a right to object, may become a party to such proceeding.

IT IS FURTHER ORDERED that a copy of the petition and complaint and of this Order be served upon the defendants, and the proper officers of the defendants make sworn answer, as is provided by law.

This _____ day of May, 2020.

Judge, Superior Court
DeKalb County, Georgia

NOTICE TO THE PUBLIC

YOU ARE HEREBY NOTIFIED that there will be heard before the presiding judge of the Superior Court of DeKalb County, Georgia, on the ____ day of June, 2020, at __:__ __.m. in open court in the City of Decatur, Georgia, the case of the State of Georgia v. City of Clarkston, Georgia, pending in said Court, the same being a proceeding to confirm and validate a general obligation sales tax refunding bond in the principal amount of \$3,697,000 proposed to be issued by the City of Clarkston, Georgia (the “City”) and the security therefor (including the county one percent special purpose local option sales tax and ad valorem property tax) for the purpose of providing funds necessary to refund the City of Clarkston, Georgia General Obligation Sales Tax Bond, Series 2018 so as to effect a savings in the debt service requirements on the City’s now outstanding bonded indebtedness.

Pursuant to O.C.G.A. Section 36-82-100 (the “Audit Statute”), the City hereby notifies all interested parties that no independent performance audit or performance review will be conducted with respect to the issuance of the Bond. However, the City will ensure that the proceeds of the Bond are expended efficiently and economically as intended by the Audit Statute.

Any citizen of the State of Georgia residing in the City, or any other person wherever residing who has a right to object, may become a party to these proceedings (“Intervenors”). The matter is an essential function and will be heard notwithstanding the Supreme Court of Georgia’s Order Declaring Statewide Judicial Emergency, dated March 14, 2020, as extended by a similar Order, dated April 6, 2020, and as further extended by a similar Order, dated May __, 2020. In order to limit the risk of exposure to Coronavirus/COVID-19, Intervenors should use the e-filing system, and all parties and Intervenors will be required to

participate by video conference or telephone conference. The link to the videoconference is _____, and the telephone conference call number is _____.

Intervenors are hereby specifically notified that filing deadlines will not be tolled or extended.

Clerk, Superior Court
DeKalb County, Georgia