

ORDINANCE NO. 2023-1174

An Ordinance Authorizing the Amendment of Use of Proceeds from the City's General Obligation Warrants, Series 2020, and the Execution and Delivery of a First Amendment to Tax Certificate and Agreement

Adopted by

the City Council of

Boaz, Alabama

on

June 9, 2023

ORDINANCE NO. 2023-1174

An Ordinance Authorizing the Amendment of Use of Proceeds from the City's General Obligation Warrants, Series 2020, and the Execution and Delivery of a First Amendment to Tax Certificate and Agreement

WHEREAS, the City of Boaz, Alabama (the "City") issued its General Obligation Warrants, Series 2020, dated September 17, 2020, issued in the original aggregate principal amount of \$8,145,000 and currently outstanding in the aggregate principal amount of \$7,900,000 (the "Series 2020 Warrants");

WHEREAS, the Series 2020 Warrants were issued pursuant to Article IV, Section 94.01 of the Recompile Constitution of Alabama of 1901, as amended, and Ordinance No. 2020-1149 adopted by the governing body of the City on September 14, 2020 (the "Series 2020 Authorizing Ordinance");

WHEREAS, Section 2.1(a) of the Series 2020 Authorizing Ordinance, the City established that the proceeds of the Series 2020 Warrants will be used to finance the acquisition, construction and equipping of building improvements to reface existing buildings owned by the City generally referred to as the former outlet mall storefronts and/or finance recreational facilities and other capital improvements (the "Series 2020 Improvements");

WHEREAS, simultaneously with the issuance of the Series 2020 Warrants, the City also executed and delivered that certain Tax Certificate and Agreement dated as of September 17, 2020 (the "Series 2020 Tax Certificate") wherein it likewise memorialized that the proceeds of the Series 2020 Warrants would be used to finance the Series 2020 Improvements;

WHEREAS, upon the date of issuance of the Series 2020 Warrants, the City received approximately \$8,501,594.53 to finance the Series 2020 Improvements and to date, the City has applied approximately \$5,993,573.12 (which includes certain investment earnings) to finance improvements which are owned and used by the City, mainly public recreational facilities which are open to the general public;

WHEREAS, the City currently has approximately \$2,508,021.41 of remaining unspent proceeds from the Series 2020 Warrants;

WHEREAS, upon advice of its bond counsel, the City wishes to apply the remaining proceeds of the Series 2020 Warrants to finance the City's ARTRIP road project (estimated to be approximately \$3.5 million after receipt of a \$2 million grant) and additional recreational improvements for general public use (collectively, the "Amended Series 2020 Improvements") as substitution for, and in lieu of, use of said remaining proceeds from the Series 2020 Warrants to finance improvements to storefronts commonly known as the former outlet mall property;

WHEREAS, the City is well within the federal tax allocation period (as set forth in Treas. Reg. § 1.148-6(d)(1)(iii) of 18 months after the later of the date the expenditure is paid or the date the project is placed in service, both with respect to any proceeds of the Series 2020 Warrants already spent and the remaining proceeds of the Series 2020 Warrants yet to be spent;

WHEREAS, the governing body of the City wishes to memorialize the use of the remaining Series 2020 proceeds for the Amended Series 2020 Improvements and authorizes the officers of the City to execute and deliver a First Amendment to the Series 2020 Tax Certificate to memorialize the same.

BE IT ORDAINED BY THE GOVERNING BODY OF BOAZ, ALABAMA, as follows:

1. **Amended Series 2020 Improvements.** The governing body of the City hereby authorizes and directs that the remaining proceeds of the Series 2020 Warrants be used to finance the Amended Series 2020 Improvements in substitution for, and in lieu of, that portion of said originally contemplated Series 2020 Improvements at the time of the issuance of the Series 2020 Warrants. The Mayor and City Clerk are each hereby authorized and directed to execute any and all documents necessary or convenient to memorialize the allocation of proceeds of the Series 2020 Warrants to the Amended Series 2020 Improvements and to apply any remaining unspent proceeds of the Series 2020 Warrants to the Amended Series 2020 Improvements.
2. **First Amendment to Series 2020 Tax Certificate.** The governing body of the City hereby authorizes the execution and delivery on behalf of the City of a First Amendment to the Series 2020 Tax Certificate to reflect the use of proceeds of the Series 2020 Warrants to the Amended Series 2020 Improvements and hereby authorizes the Mayor and City Clerk to execute and deliver said First Amendment on behalf of the City.

Adopted this 9th day of June, 2023.

David Dyar, Mayor

[S E A L]

Attest:

Beth Stephens, City Clerk

It was moved by Councilmember _____ that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of the said Ordinance 2023-1174 be suspended and that unanimous consent to the immediate consideration and adoption of the said Ordinance 2023-1174 be given. The motion was seconded by Councilmember _____ and on roll call was unanimously adopted, those answering aye being:

Ayes: David Ellis
 Josh Greer
 Johnny Willis
 Jeff Sims
 Mike Matthews

Nays: None

The Mayor declared the motion unanimously carried.

After the said Ordinance 2023-1174 had been discussed and considered in full by the Council, it was moved by Councilmember _____ that the said Ordinance 2023-1174 be now placed upon its final passage and adopted. The motion was seconded by Councilmember _____. The question being put as to the adoption of the said motion and the final passage of the said Ordinance, the roll was called with the following results:

Ayes: David Ellis
 Josh Greer
 Johnny Willis
 Jeff Sims
 Mike Matthews

Nays: None

The Mayor declared the motion unanimously carried and the said Ordinance 2023-1174 passed and adopted as introduced.