



**COMMON COUNCIL
AGENDA
ADJOURNED
SPECIAL MEETING
SEPTEMBER 1, 2015
5:00 PM**

**FIRST READING
ORDINANCE:**

1. Ordinance of the Common Council of the City of White Plains establishing Capital Project No. W5463, entitled, "Water Transmission Main from CAPS."
2. Bond Ordinance dated August 31, 2015, authorizing the issuance of \$2,725,000 aggregate principal amount serial bonds of the City of White Plains, County of Westchester, State of New York, to finance the costs of the acquisition and installation of water system improvements.
3. Bond Ordinance dated August 31, 2015, repealing the authorization of \$1,500,000 aggregate principal amount serial bonds of the City of White Plains, New York, previously authorized on July 7, 2008, to increase the estimated maximum costs of the extension of a large diameter water main from the Central Avenue Pump Station, in and for said City.
4. Ordinance authorizing the settlement of the property damage of Catherine Schaubert against the City of White Plains.

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF WHITE PLAINS ESTABLISHING CAPITAL PROJECT NO. W5463, ENTITLED, "WATER TRANSMISSION MAIN FROM CAPS."

The Common Council of the City of White Plains hereby ordains and enacts as follows:

Section 1. As part of the continuing program of Capital Improvements, the Capital Projects Board has recommended the continuation of the City's multi-year water transmission main extension program. This is a continuation of the large diameter (30") water main from the City's Central Avenue Pump Station (CAPS) which will be installed along Ferris Avenue, up to the intersection of Cemetery Road. This completes another portion of the water transmission system, which will eventually connect CAPS and the Orchard Street Pump Station (OSPS).

Section 2. The Mayor is hereby authorized to direct the Commissioner of Public Works to enter into various contracts, as necessary, to undertake this project. Said contracts shall be in a form approved by the Corporation Counsel.

Section 3. In order to provide the necessary funding for the Commissioner of Public Works to effectuate the project, the Mayor is hereby authorized to direct the Budget Director to amend the Capital Projects Fund by establishing Capital Project No. W5463, entitled, "**Water Transmission Main from CAPS,**" as follows:

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REVENUES:

W5463-08810	Serial Bonds	<u>\$2,725,000</u>
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EXPENDITURES:

W5463-4.005	Finance and Auditing	\$ 100,000
W5448-8.681	Water System	<u>2,625,000</u>
		<u>\$ 2,725,000</u>

Section 4. The Mayor is hereby further authorized to direct the Commissioner of Finance to authorize the sale of serial bonds totaling \$2,725,000, and to advance funds for this project from the General Fund, as necessary, pending receipt of the bond proceeds, and to receive and disburse funds accordingly.

Section 5. This ordinance shall take effect immediately.

BOND ORDINANCE, DATED AUGUST 31, 2015, AUTHORIZING THE ISSUANCE OF \$2,725,000 AGGREGATE PRINCIPAL AMOUNT SERIAL BONDS OF THE CITY OF WHITE PLAINS, COUNTY OF WESTCHESTER, STATE OF NEW YORK, TO FINANCE THE COSTS OF THE ACQUISITION AND INSTALLATION OF WATER SYSTEM IMPROVEMENTS.

WHEREAS, the Common Council of the City of White Plains (the “City”), a municipal corporation of the State of New York, located in the County of Westchester, determined that it is in the public interest of the City to authorize the financing of the costs of the acquisition and installation of water system improvements (water main extensions), including the acquisition of any applicable equipment, machinery, apparatus, land and rights-in-land necessary therefor and any preliminary and incidental costs related thereto, at a total estimated cost not to exceed \$2,725,000, for which no funds have heretofore been appropriated or borrowed, all in accordance with the Local Finance Law (the “Project”);

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of White Plains, in the County of Westchester, State of New York, as follows:

Section 1. There is hereby authorized to be issued serial bonds of the City, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds, in the aggregate principal amount not to exceed \$2,725,000, pursuant to the Local Finance Law, in order to finance the costs of the acquisition and installation of water system improvements (the “Project”).

Section 2. The Common Council of the City has ascertained and hereby states that (a) the estimated maximum cost of the Project is not to exceed \$2,725,000, (b) no money has heretofore been authorized to be applied to the payment of the costs of the Project, (c) the Common Council of the City plans to finance such costs of the Project from the proceeds of serial bonds authorized herein or bond anticipation notes issued in anticipation of the issuance of such serial bonds, (d) the maturity

of the obligations authorized herein will be in excess of five (5) years, and (e) on or before the expenditure of moneys to pay any costs for the Project, for which proceeds of any obligations authorized herein are to be applied to reimburse the City, the Common Council of the City took “official action” for federal income tax purposes to authorize capital financing of such expenditure.

Section 3. It is hereby determined that the Project is a specific object or purpose, or of a class of object or purpose, described in subdivision 1 of paragraph a of Section 11.00 of the Local Finance Law and that the period of probable usefulness of the Project is forty (40) years. The serial bonds authorized herein shall have a maximum maturity of forty (40) years computed from the earlier of (a) the date of the first issue of such serial bonds, or (b) the date of the first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 4. Subject to the terms and conditions of this bond ordinance and the Local Finance Law, including the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to authorize the issuance of the serial bonds authorized herein, and bond anticipation notes issued in anticipation of the issuance of such serial bonds, including renewals thereof, the power to prescribe the terms, form and contents of such serial bonds and such bond anticipation notes, including whether to issue such serial bonds having substantially level or declining annual debt service, and the power to issue, sell and deliver such serial bonds and such bond anticipation notes, are hereby delegated to the Commissioner of Finance, as the chief fiscal officer of the City. The Commissioner of Finance is hereby authorized to execute by manual or facsimile signature on behalf of the City, all serial bonds authorized herein and all bond anticipation notes issued in anticipation of the issuance of such serial bonds, and the City Clerk is hereby authorized to impress the seal of the City (or to have imprinted a facsimile thereof) on all such serial bonds and all such bond anticipation notes and to attest such seal. Each interest coupon, if any, representing interest payable on such serial

bonds shall be authenticated by the manual or facsimile signature of the Commissioner of Finance. In the absence of the Commissioner of Finance, the Deputy Commissioner of Finance is hereby authorized to exercise the powers delegated to the Commissioner of Finance by this bond ordinance.

Section 5. When this bond ordinance takes effect, the City Clerk shall cause the same, or a summary thereof, to be published, together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law, in *The Journal News*, a newspaper having a general circulation in the City and, as a result thereafter, the validity of such serial bonds authorized herein, and of bond anticipation notes issued in anticipation of the issuance of such serial bonds, may be contested only if such obligations are authorized for an object or purpose, or a class of object or purpose, for which the City is not authorized to expend money, or the provisions of law, which should have been complied with as of the date of the publication of this bond ordinance, or such summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations were authorized in violation of the provisions of the Constitution of the State of New York.

Section 6. The faith and credit of the City are hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized herein as the same shall become due.

Section 7. The City hereby declares its intention to issue serial bonds as authorized herein, and/or bond anticipation notes issued in anticipation of the issuance of such serial bonds (collectively, the "obligations"), to finance the costs of the Project. The City covenants for the benefit of the holders of such obligations that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations, or any

other funds of the City, and will not make any use of the Project which would cause the interest on such obligations to become subject to federal income taxation under the Internal Revenue Code of 1986, as amended (the "Code") (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code, and that it will not take any action or omit to take any action with respect to such obligations, the proceeds thereof or the Project financed thereby, if such action or omission would cause the interest on such obligations to become subject to federal income taxation under the Code (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the serial bonds authorized herein or any other provisions hereof until the date which is sixty (60) days after the final maturity date of such serial bonds or an earlier prior redemption date thereof. The proceeds of the serial bonds authorized herein, and any bond anticipation notes issued in anticipation of the issuance of such serial bonds, may be applied to reimburse expenditures or commitments made with regard to the Project on or after a date which is not more than sixty (60) days prior to the adoption date of this bond ordinance by the City. The City may expend general funds or other available moneys for the Project which shall be reimbursed from the proceeds of such obligations.

Section 8. Prior to the issuance of the serial bonds authorized herein, or of bond anticipation notes issued in anticipation of the issuance of such serial bonds, the Common Council of the City shall comply with all applicable provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and regulations in connection with environmental quality review relating to the Project (collectively, the "environmental compliance

proceedings”). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond ordinance, the Common Council of the City covenants that it will re-adopt, amend or modify this bond ordinance prior to the issuance of any obligations authorized herein upon the advice of bond counsel. It is hereby determined by the Common Council of the City that the Project will not have a significant impact or effect on the environment.

Section 9. For the benefit of the holders and beneficial owners from time to time of the serial bonds authorized herein, or of bond anticipation notes issued in anticipation of the issuance of such serial bonds, the City agrees, in accordance with and as an obligated person with respect to the obligations under, Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the “Rule”), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner as may be required for purposes of the Rule. In order to describe and specify certain terms of the City’s continuing disclosure agreement for that purpose, and thereby implement that agreement, including provisions for enforcement, amendment and termination, the Commissioner of Finance is authorized and directed to sign and deliver, in the name and on behalf of the City, the commitment authorized by the Rule (the “Commitment”), to be placed on file with the City Clerk and which shall constitute the continuing disclosure agreement made by the City for the benefit of holders and beneficial owners of the obligations authorized herein in accordance with the Rule, with any changes or amendments that are not inconsistent with this bond ordinance and not substantially adverse to the City and that are approved by the Commissioner of Finance on behalf of the City, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed collectively by this paragraph and the Commitment shall be the City’s continuing disclosure

agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform thereunder. The Commissioner of Finance is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the Commissioner of Finance shall consult with, as appropriate, its Corporation Counsel and bond counsel or other qualified independent special counsel to the City and shall be entitled to rely upon any legal advice provided by its Corporation Counsel or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. This bond ordinance shall take effect immediately upon its due adoption by the Common Council of the City.

BOND ORDINANCE, DATED AUGUST 31, 2015, REPEALING THE AUTHORIZATION OF \$1,500,000 AGGREGATE PRINCIPAL AMOUNT SERIAL BONDS OF THE CITY OF WHITE PLAINS, NEW YORK PREVIOUSLY AUTHORIZED ON JULY 7, 2008 TO INCREASE THE ESTIMATED MAXIMUM COSTS OF THE EXTENSION OF A LARGE DIAMETER WATER MAIN FROM THE CENTRAL AVENUE PUMP STATION, IN AND FOR SAID CITY.

WHEREAS, the Common Council of the City of White Plains (the “City”), authorized the issuance of \$1,500,000 serial bonds to pay the additional cost of the extension of a large diameter water main from the Central Avenue Pump Station and deleting the specific reference to Richard Street (the “Project”) pursuant to a bond ordinance adopted by the Common Council on July 7, 2008 (the “2008 Ordinance”); and

WHEREAS, the Common Council of the City hereby determines that funding from the issuance of obligations authorized in the 2008 Ordinance is not required to complete the Project and that it is in the best interest and the public interest of the City to repeal the authorization of \$1,500,000 serial bonds for the Project contained in the 2008 Ordinance;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of White Plains, in the County of Westchester, State of New York, as follows:

Section 1. The authorization of \$1,500,000 serial bonds to finance part of the Project contained in the 2008 Ordinance is hereby repealed, revoked and rescinded and shall be of no force and effect.

Section 2. The provision in the 2008 Ordinance amending the object or purpose of the Project to remove the specific reference to Richard Street shall remain in full force and effect.

Section 3. This ordinance is effective immediately upon adoption by the Common Council of the City.

**AN ORDINANCE AUTHORIZING THE SETTLEMENT OF
THE PROPERTY DAMAGE CLAIM OF CATHERINE SCHAUBER
AGAINST THE CITY OF WHITE PLAINS.**

The Common Council of the City of White Plains hereby ordains and enacts as follows:

Section 1. The settlement of the property damage claim of Catherine Schauber against the City of White Plains in the amount of up to \$20,000.00 is hereby authorized.

Section 2. The Mayor is authorized to direct the Commissioner of Finance to pay up to the sum of \$20,000.00 from the City's Self-Insurance Fund.

Section 3. This ordinance shall take effect immediately.

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