

CITY OF WINCHESTER, VIRGINIA

CITY COUNCIL AGENDA ITEM

CITY COUNCIL MEETING OF: September 8, 2015

RESOLUTION ORDINANCE DESCRIPTION/PRESENTATION

ITEM TITLE: RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND AWARD OF A GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND OF THE CITY OF WINCHESTER, VIRGINIA, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$7,200,000 AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

PUBLIC HEARING DATE:

The initiating Department Director will place below, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.

Review:

| | | |
|------------------|-----------|--------------------|
| Mary Blowe | Completed | 09/01/2015 3:14 PM |
| Anthony Williams | Completed | 09/01/2015 3:30 PM |
| Eden Freeman | Completed | 09/01/2015 5:29 PM |

Mary Blowe

Mary Blowe, Chief Financial Officer

9/1/2015



APPROVED AS TO FORM:


CITY ATTORNEY


Eden Freeman, City Manager

9/1/2015

CITY COUNCIL ACTION MEMO

To: Honorable Mayor and Members of City Council
From: Mary Blowe, Chief Financial Officer
Date: September 8, 2015
Re: RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND AWARD OF A GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND OF THE CITY OF WINCHESTER, VIRGINIA, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$7,200,000 AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

THE ISSUE:

As part of the budget process the following projects required bond proceeds:

- JJC Improvements- \$3,700,000
- City Hall Renovations & HVAC replacement- \$1,315,000
- Valley Avenue/Whitlock Drainage- \$385,000
- Meadow Branch Extension- \$600,000
- JKES furniture & fixtures- \$1,000,000

RELATIONSHIP TO STRATEGIC PLAN:

With the projects listed above we are supporting the goal to promote and accelerate revitalization of targeted areas within the City. Also, we are improving City services and advancing the City's strategic plan goal by promoting a culture of transparency, *efficiency and innovation*.

BACKGROUND:

During the budget process, the projects listed above were approved to be funded with bonds. Since this is a small issuance, we are going to introduce both a resolution (for a private placement) and an ordinance (for a public offering). So, if we do not receive an acceptable bid for our bonds with the private placement, we are in a position to go forward with a public offering. The document that is not needed with automatically expire upon closing.

BUDGET IMPACT:

| Maturity Date | Principal |
|----------------------|------------------|
| 9/15/2016 | \$ 275,000 |
| 9/15/2017 | \$ 280,000 |
| 9/15/2018 | \$ 290,000 |
| 9/15/2019 | \$ 3 0 0 ,000 |
| 9/15/2020 | \$ 305,000 |

| | |
|--------------|---------------------|
| 9/15/2021 | \$ 315,000 |
| 9/15/2022 | \$ 325,000 |
| 9/15/2023 | \$ 330,000 |
| 9/15/2024 | \$ 340,000 |
| 9/15/2025 | \$ 350,000 |
| 9/15/2026 | \$ 360,000 |
| 9/15/2027 | \$ 370,000 |
| 9/15/2028 | \$ 380,000 |
| 9/15/2029 | \$ 390,000 |
| 9/15/2030 | \$ 405,000 |
| 9/15/2031 | \$ 415,000 |
| 9/15/2032 | \$ 425,000 |
| 9/15/2033 | \$ 435,000 |
| 9/15/2034 | \$ 450,000 |
| 9/15/2035 | \$ 460,000 |
| <u>Total</u> | <u>\$ 7,200,000</u> |

Interest on be determined by either the Private placement bid, or public offering.

OPTIONS:

Two options are being presented, a private placement or public offering. After the RFP's are evaluated the CFO will bring the offers (rates) forward to Council for final approval.

RECOMMENDATIONS:

I recommend we run the resolution and ordinance during the same time frame to be able to achieve the best rate possible on our 2015 bond issuance.

**RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND AWARD OF A
GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND OF THE CITY OF
WINCHESTER, VIRGINIA, IN THE MAXIMUM PRINCIPAL AMOUNT OF
\$7,200,000 AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT
THEREOF**

RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND AWARD OF A GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND OF THE CITY OF WINCHESTER, VIRGINIA, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$7,200,000 AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

WHEREAS, on October 13, 2015, the Common Council (the “Council”) of the City of Winchester, Virginia (the “City”), adopted an ordinance authorizing the issuance of general obligation bonds in a principal amount not to exceed \$7,200,000 to finance the costs of certain capital improvement projects for the City, including (but not limited to) one or more of the following projects: the acquisition, construction, extension, renovation and equipping of joint judicial center improvements, City Hall renovations and HVAC replacement, road, street and sidewalk improvements, and public school improvements (collectively, the “Project”);

WHEREAS, the City’s administration in collaboration with Public Financial Management, acting in the role as the City’s financial advisor (the “Financial Advisor”), has recommended to the Council that the City issue and sell a single general obligation public improvement bond through a direct placement with a commercial banking or other financial institution to finance the Project;

WHEREAS, at the request of the City, the Financial Advisor has solicited bids for the purchase of the Bond (as hereinafter defined); and

WHEREAS, the Council desires to delegate to the City Manager the authority to award the sale of the Bond and to determine the final pricing terms of the Bond within certain parameters set forth below;

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF WINCHESTER, VIRGINIA:

1. Issuance of Bond. Pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991 and the City Charter, the Council hereby provides for the issuance and sale of a general obligation bond of the City in the maximum principal amount of \$7,200,000 (the “Bond”) to provide funds to finance the Project and to pay the costs of issuing the Bond. Further, the Council hereby authorizes the City Manager to determine, in collaboration with the Financial Advisor, which bid is in the best interests of the City to accept and to award the Bond to such commercial banking or other financial institution (the “Bank”).

2. Bond Details. The Bond shall be designated “General Obligation Public Improvement Bond, Series 2015,” or such other designation as may be determined by the City Manager, shall be in registered form, shall be dated such date as determined by the City Manager and shall be numbered R-1. The Bond shall be sold to the Bank with final terms that the City Manager, in collaboration with the Financial Advisor, determines to be in the best interests of the City; provided, however, that the Bond (a) shall be issued in an aggregate principal amount not to exceed \$7,200,000, (b) shall bear interest at an initial rate not to exceed 4.5%, subject to adjustment, if any, as determined by the City Manager, (c) shall be sold to the Bank at a price of

100% of the original principal amount thereof, and (d) shall mature no later than December 31, 2035.

Interest on the Bond shall be payable semi-annually on dates determined by the City Manager. Principal on the Bond shall be payable in installments in amounts and on dates determined by the City Manager. Following the determination of the final pricing terms, the City Manager shall execute a certificate setting forth such final pricing terms and shall file such certificate with the records of the Council. The actions of the City Manager in selling the Bond shall be conclusive, and no further action with respect to the sale and issuance of the Bond shall be necessary on the part of the Council.

If the date on which any payment is due with respect to the Bond is not a Business Day (as hereinafter defined), the payment shall be made on the next succeeding Business Day. "Business Day" shall mean a day on which banking business is transacted, but not including a Saturday, Sunday, legal holiday or any other day on which banking institutions are authorized by law to close in the Commonwealth of Virginia.

Principal and interest shall be payable by the Registrar (as hereinafter defined) by check or draft mailed to the registered owner at the address as it appears on the registration books kept by the Registrar on the date selected by the City Manager as the record date for the Bond (the "Record Date"); provided, however, that at the request of the registered owner of the Bond, payment will be made by wire transfer pursuant to the most recent wire instructions received by the Registrar from such registered owner. Principal, premium, if any, and interest shall be payable in lawful money of the United States of America.

3. Redemption Provisions. Subject to the limitations contained herein, the City Manager is hereby authorized to determine the redemption provisions of the Bond. Such redemption provisions may include the payment of a call premium not to exceed 2% of the par amount of the Bond (or portion thereof) to be redeemed and/or may include a "make-whole" payment based on market conditions, all as the City Manager may determine to be in the best interests of the City.

4. Execution and Authentication. The Bond shall be signed by the manual or facsimile signature of the President of the Common Council and the City Treasurer, the City's seal shall be affixed thereto or a facsimile thereof printed thereon and shall be attested by the manual or facsimile signature of the Clerk or Deputy Clerk of the Common Council; provided, however, that no Bond signed by facsimile signatures shall be valid until it has been authenticated by the manual signature of the Registrar or, if a bank has been appointed registrar pursuant to section 7, an authorized officer or employee of such bank and the date of authentication has been noted thereon.

5. Bond Form. The Bond shall be in substantially the form of Exhibit A attached hereto, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officers signing the Bond, whose approval shall be evidenced conclusively by the execution of the Bond and the delivery thereof to the Bank.

6. Pledge of Full Faith and Credit. The full faith and credit of the City are irrevocably pledged for the payment of principal of and premium, if any, and interest on the Bond. Unless other funds are lawfully available and appropriated for timely payment of the Bond, the Council shall levy and collect an annual ad valorem tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the City sufficient to pay when due the principal of and premium, if any, and interest on the Bond.

7. Registration, Transfer and Owners of Bond. The Bond shall be issued in registered form without coupons, payable to the registered holders or registered assigns. The City Treasurer is hereby appointed to act as the registrar and paying agent for the Bond (the "Registrar"). The Council may, in its discretion, appoint at any time a bank or trust company to serve as successor Registrar for the Bond. The Registrar shall maintain registration books for the registration of the Bond and transfers thereof. Upon presentation and surrender of the Bond at the office of the City Treasurer, or the corporate trust office of the Registrar if the City Treasurer is no longer serving as Registrar, together with an assignment duly executed by the registered owner or its duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the City shall execute, and the Registrar shall authenticate, if required by Section 4, and deliver in exchange, a new Bond having an equal aggregate principal amount, of the same form and maturity, bearing interest at the same rate and registered in names as requested by the then registered owner or its duly authorized attorney or legal representative. Any such exchange shall be at the expense of the City, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that interest payments shall be made to the person or entity shown as owner on the registration books on the Record Date.

8. Preparation and Delivery of Bond. Subject to the provisions of paragraphs 1 and 2, the officers of the City are authorized and directed to take all proper steps to have the Bond prepared and executed in accordance with its terms and to deliver the Bond to the Bank upon payment therefor.

9. Mutilated, Lost or Destroyed Bond. If the Bond has been mutilated, lost or destroyed, the City shall execute and deliver a new Bond of like date and tenor in exchange and substitution for, and upon cancellation of, such mutilated Bond or in lieu of and in substitution for such lost or destroyed Bond; provided, however, that the City shall so execute and deliver only if the registered owner has paid the reasonable expenses and charges of the City and the Registrar in connection therewith and, in the case of a lost or destroyed Bond, (a) has filed with the City and the Registrar evidence satisfactory to the City that such Bond was lost or destroyed and (b) has furnished to the City and the Registrar satisfactory indemnity.

10. Deposit of Bond Proceeds. The City Treasurer is authorized to (a) provide for the deposit of the proceeds of the Bond in a special account to be maintained with an escrow

agent or depository, pursuant to an escrow agreement or other contract between the City and such escrow agent or depository, all as deemed necessary in the discretion of the City Treasurer and the City Manager, and (b) requisition and apply such proceeds to pay the costs of the Project and the costs incurred in issuing the Bond.

11. Arbitrage Covenants.

(a) The City represents that there have not been issued, and covenants that there will not be issued, any obligations that will be treated as part of the same “issue” as the Bond within the meaning of Treasury Regulations Section 1.150-1(c).

(b) The City covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bond to be an “arbitrage bond” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”), or otherwise cause interest on the Bond to be includable in the gross income for federal tax purposes of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the City shall comply with any provision of law that may require the City at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bond, unless the City receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bond from being includable in the gross income for federal income tax purposes of the registered owner thereof under existing law. The City shall pay any such required rebate from its legally available funds.

12. Non-Arbitrage Certificate and Elections. Such officers of the City as may be requested by bond counsel for the City are authorized and directed to execute an appropriate certificate setting forth (a) the expected use and investment of the proceeds of the Bond in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code, and (b) any elections such officers deem desirable regarding rebate of earnings to the United States for purposes of complying with Section 148 of the Code. Such certificate shall be prepared in consultation with bond counsel for the City, and such elections shall be made after consultation with bond counsel.

13. Limitation on Private Use. The City covenants that it shall not permit the proceeds of the Bond or the facilities financed thereby to be used in any manner that would result in (a) 5% or more of such proceeds or facilities being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, (b) 5% or more of such proceeds or facilities being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the City receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bond from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the City need not comply with such covenants.

14. SNAP Investment Authorization. The Council has received and reviewed the Information Statement describing the State Non-Arbitrage Program of the Commonwealth of Virginia (“SNAP”) and the Contract Creating the State Non-Arbitrage Program Pool I (the “Contract”), and the Council has determined to authorize the City Manager to utilize SNAP in connection with the investment of the proceeds of the Bond, if the City Manager determines that the utilization of SNAP is in the best interests of the City. The Council acknowledges that the Treasury Board of the Commonwealth of Virginia is not, and shall not be, in any way liable to the City in connection with SNAP, except as otherwise provided in the Contract.

15. Other Actions. All other actions of officers of the City in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Bond are ratified, approved and confirmed. The officers of the City are authorized and directed to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable in connection with the issuance, sale and delivery of the Bond.

16. Repeal of Conflicting Resolutions. All prior resolutions or parts thereof in conflict herewith are repealed.

17. Effective Date. This Resolution shall take effect immediately.

REGISTERED

REGISTERED

No. R-1

\$ _____

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
CITY OF WINCHESTER

General Obligation Public Improvement Bond
Series 2015

The City of Winchester, Virginia (the "City"), for value received, promises to pay, to _____ or its registered assigns or legal representative (the "Bank"), the principal sum of _____ **AND 00/100 DOLLARS (\$_____)**, together with interest from the date of this bond on the unpaid principal, at the annual rate of __%, calculated on the basis of a 360-day year of twelve 30-day months, [subject to redemption prior to maturity as hereinafter provided]. Interest shall be payable semi-annually on each [March 1] and [September 1], commencing [March 1, 2016], and principal shall be payable annually on [September 1] in the amounts and years as set forth on Schedule I attached hereto. Principal of [and premium, if any,] and interest on this bond are payable in lawful money of the United States of America by the [City Treasurer], who has been appointed paying agent and registrar for this bond, or by such bank or trust company as may be appointed by the City as successor paying agent and registrar (the "Registrar").

If the date on which any payment is due with respect to this bond is not a Business Day (as hereinafter defined), the payment shall be made on the next succeeding Business Day. "Business Day" shall mean a day on which banking business is transacted, but not including a Saturday, Sunday, legal holiday or any other day on which banking institutions are authorized by law to close in the Commonwealth of Virginia.

This bond is issued pursuant to the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991 and the City Charter. This bond has been authorized and issued pursuant to an ordinance and a resolution, both adopted by the Common Council on [October 13], 2015, to provide funds to (a) finance the costs of certain capital improvement projects for the City, including (but not limited to) one or more of the following projects: the acquisition, construction, extension, renovation and equipping of joint judicial center improvements, City Hall renovations and HVAC replacement, road, street and sidewalk improvements, and public school improvements (collectively, the "Project") and (b) pay the costs of issuing this bond.

[This bond is subject to redemption prior to maturity, in whole or in part at any time, at the option of the City, upon payment of a redemption price equal to ___% of the principal amount to be redeemed, plus accrued and unpaid interest, if any, to the redemption date.]

The full faith and credit of the City are irrevocably pledged for the payment of principal of [and premium, if any,] and interest on this bond. Unless other funds are lawfully available and appropriated for timely payment of this bond, the Common Council shall levy and collect an annual ad valorem tax, over and above all other taxes authorized or limited by law and without limitation as to rate or amount, on all locally taxable property in the City sufficient to pay when due the principal of [and premium, if any,] and interest on this bond.

The Registrar shall treat the registered owner of this bond as the person exclusively entitled to payment of principal of [and premium, if any,] and interest on this bond and the exercise of all rights and powers of the owner, except that interest payments shall be made to the person shown as the registered owner on the registration books on the [15th] day of the month preceding each interest payment date.

All acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist or be performed precedent to and in the issuance of this bond have happened, exist and have been performed, and this bond, together with all other indebtedness of the City, is within every debt and other limit prescribed by the Constitution and statutes of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the Common Council of the City of Winchester, Virginia, has caused this bond to be issued in the name of the City of Winchester, Virginia, to be signed by the President of the Common Council and the City Treasurer, its seal to be affixed hereto and attested by the Clerk of the Common Council, and this bond to be dated the date first above written.

(SEAL)

President of the Common Council,
City of Winchester, Virginia

City Treasurer, City of Winchester, Virginia

(ATTEST)

Clerk of the Common Council,
City of Winchester, Virginia

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sell(s), assign(s) and transfer(s) unto

(Please print or type name and address, including postal zip code, of Transferee)

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF TRANSFEREE:

: :
: :
: :
: :

the within bond and all rights thereunder, hereby irrevocably constituting and appointing
_____,
Attorney, to transfer said bond on the books kept for the registration thereof, with full power of
substitution in the premises.

Dated: _____

Signature Guaranteed

NOTICE: Signature(s) must be guaranteed
by an Eligible Guarantor Institution such
as a Commercial Bank, Trust Company,
Securities Broker/Dealer, Credit Union
or Savings Association who is a member
of a medallion program approved by The
Securities Transfer Association, Inc.

(Signature of Registered Owner)

NOTICE: The signature above must
correspond with the name of the
registered owner as it appears on the
front of this bond in every particular,
without alteration or enlargement or any
change whatsoever.

SCHEDULE I

[Final Payment Schedule to be attached at closing]