

Ordinance No. 2056

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SALISBURY ENTITLED AN ORDINANCE SUPPLEMENTING ORDINANCE NO. 1724, PASSED BY THE COUNCIL ON MAY 10, 1999, APPROVED BY THE MAYOR ON MAY 10, 1999 AND EFFECTIVE ON MAY 10, 1999, AS AMENDED BY ORDINANCE NO. 1890, PASSED BY THE COUNCIL ON JANUARY 12, 2004, APPROVED BY THE MAYOR ON JANUARY 20, 2004 AND EFFECTIVE ON JANUARY 20, 2004, IN ORDER TO AUTHORIZE AND EMPOWER CITY OF SALISBURY TO USE AND APPLY A PORTION OF THE PROCEEDS OF THE \$4,860,000 CITY OF SALISBURY PUBLIC IMPROVEMENTS BOND OF 1999 ISSUED ON MAY 18, 1999 (THE "1999 BOND") FOR THE PUBLIC PURPOSE OF FINANCING OR REIMBURSING COSTS OF ENGINEERING AND CONSTRUCTION OF AN ELEVATED WATER TANK AND ENGINEERING AND CONSTRUCTION OF PUMP STATION ODOR CONTROL IMPROVEMENTS AS PROVIDED HEREIN, IN ADDITION TO THE PROJECTS PROVIDED FOR IN ORDINANCE NO. 1724, AS AMENDED BY ORDINANCE NO. 1890, AS IDENTIFIED HEREIN, AND PROVIDING FOR THE REALLOCATION OF CERTAIN PROCEEDS OF THE 1999 BOND TO THE WOR-WIC PROJECT UNDER THE WATER FUND SUBHEADING AS PROVIDED HEREIN; AUTHORIZING, DIRECTING OR EMPOWERING CITY OFFICIALS AND EMPLOYEES TO TAKE CERTAIN ACTIONS WITH RESPECT TO THE 1999 BOND; PROVIDING THAT THIS TITLE IS A FAIR STATEMENT OF THE SUBSTANCE OF THIS ORDINANCE; AND OTHERWISE GENERALLY RELATING TO THE USE OF PROCEEDS OF THE 1999 BOND.

RECITALS

WHEREAS, as of 1999, City of Salisbury, a municipal corporation of the State of Maryland (the "City"), was authorized and empowered by Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland (the "Enabling Act") and Sections SC7-46 and SC7-47 of the Charter of the City of Salisbury (the "Charter"), to borrow money for the general welfare of the City and its general corporate purposes and to evidence such borrowing by the issuance and sale of its general obligation bonds; and

WHEREAS, pursuant to Resolution No. 642, adopted by the Council of the City on March 8, 1999, approved by the Mayor on March 8, 1999 and effective on March 8, 1999 (the "Original Resolution") and Ordinance No. 1724, passed by the Council of the City on May 10, 1999, approved by the Mayor on May 10, 1999 and effective on May 10, 1999 ("Ordinance No. 1724"), the City determined to undertake certain projects identified in the Recitals to the Original Resolution and Ordinance No. 1724; and the City determined to borrow money for the public purpose of financing or refinancing (including reimbursement to the City for funds previously expended by the City) "costs" (as identified in Section 1 of Ordinance No. 1724) of such projects, and to evidence this borrowing by the issuance and sale of its Public Improvements Bond of 1999 in the principal amount of Four Million Eight Hundred Sixty Thousand Dollars (\$4,860,000) (the "1999 Bond"); and

WHEREAS, pursuant to the Enabling Act, the Charter, the Original Resolution and Ordinance No. 1724, the City issued and delivered the 1999 Bond to NationsBank, N.A. (now known as Bank of America, N.A.) on May 18, 1999; and

WHEREAS, the Recitals to Ordinance No. 1724 provide that the proceeds of the 1999 Bond shall be appropriated and allocated as follows:

	<b>Amount</b>
<b>General Fund</b>	
1. Northeast Collector Road	\$1,365,000
2. Isabella Street Box Culvert	\$846,300
3. Fire Engine	\$172,900
<b>Total General Fund</b>	<b>\$2,384,200</b>
<b>Water Fund</b>	
1. Northeast Collector Road Water Main Route 50 to Old Ocean City Road	\$361,100
2. Northeast Collector Road Water Main Old Ocean City Road to Middle Neck Drive	\$334,880
3. Water Main Upgrade-Isabella Street	\$273,000
<b>Total Water Fund</b>	<b>\$968,980</b>
<b>Sewer Fund</b>	
1. Northeast Collector Road Sewer Main Route 50 to Old Ocean City Road	\$541,620
2. Northeast Collector Road Sewer Main Old Ocean City Road to Middle Neck Drive	\$502,320
3. Sewer Main Upgrade-Isabella Street	\$409,500
<b>Total Sewer Fund</b>	<b>\$1,453,440</b>
<b>Cost of Issuance and Contingency</b>	<b>\$53,380</b>
<b>Total Bond Issuance Cost</b>	<b>\$4,860,000</b>

and the projects set forth above are herein referred to as the “Original Projects” and are referred to as the “Public Improvements Projects” in the Original Resolution and Ordinance No. 1724; and

WHEREAS, Section 7 of Ordinance No. 1724 provides that:

if the City Council determines that the public interest requires a change in the capital projects program of Salisbury, the funds so borrowed and not expended for the Public Improvements Projects shall be set apart in a separate fund by the Treasurer of Salisbury and the City Council shall adopt an ordinance or resolution allocating

such funds to some other public capital improvement project or projects of Salisbury; and

WHEREAS, Section 7 of Ordinance No. 1724 further authorizes the Council of the City, by ordinance, to reallocate the amounts of the proceeds of the 1999 Bond originally allocated to the Original Projects; and

WHEREAS, pursuant to Ordinance No. 1890, passed by the Council of the City on January 12, 2004, approved by the Mayor on January 20, 2004 and effective on January 20, 2004 (“Ordinance No. 1890”), the City reallocated certain proceeds of the 1999 Bond originally appropriated for the Water Fund and the Sewer Fund components of the Original Projects among such projects, added two additional projects to such Water Fund and Sewer Fund components, each identified as the “Wor-Wic Project” (collectively referred to herein as the “2004 Additional Projects”), and allocated proceeds of the 1999 Bond to the 2004 Additional Projects as follows:

<u>Original Projects/ 2004 Additional Projects</u>	<u>Original Amount – Original Projects</u>	<u>Amount – 2004 Additional Projects</u>	<u>Adjustments</u>	<u>Revised Amount – 2004 Revised Projects</u>
<b>General Fund</b>				
1. Northeast Collector Road	\$1,365,000	N/A	--	\$1,365,000
2. Isabella Street Box Culvert	\$846,300	N/A	--	\$846,300
3. Fire Engine	\$172,900	N/A	--	\$172,900
<b>Total General Fund</b>				<b>\$2,384,200</b>
<b>Water Fund</b>				
1. Northeast Collector Road Water Main	\$695,980	N/A	+\$24,020	\$720,000
2. Water Main Upgrade-Isabella Street	\$273,000	N/A	(\$75,221)	\$197,779
3. Wor-Wic Project	N/A	\$51,201	+\$51,201	\$51,201
<b>Total Water Fund</b>				<b>\$968,980</b>
<b>Sewer Fund</b>				
1. Northeast Collector Road Sewer Main	\$1,043,940	N/A	(\$317,179)	\$726,761
2. Sewer Main Upgrade-Isabella Street	\$409,500	N/A	(\$308,364)	\$101,136
3. Wor-Wic Project	N/A	\$625,543	+\$625,543	\$625,543
<b>Total Sewer Fund</b>				<b>\$1,453,440</b>
<b>Cost of Issuance and Contingency</b>	\$53,380	N/A	--	\$53,380
		<b>TOTAL</b>		<b>\$4,860,000</b>

the Original Projects, together with the 2004 Additional Projects, are referred to herein as the “2004 Revised Projects”; and

WHEREAS, pursuant to Ordinance No. 1890, the City aggregated (i) the amounts originally allocated to the Northeast Collector Road Water Main projects in a single line item under the Water

Fund subheading and (ii) the amounts originally allocated to the Northeast Collector Road Sewer Main projects in a single line item under the Sewer Fund subheading; and

WHEREAS, the City desires to undertake two new projects identified herein respectively as: (i) “Engineering/Construction of Elevated Water Tank” and (ii) “Engineering/Construction of Pump Station Odor Control Improvements” (collectively, the “2008 Additional Projects”); and

WHEREAS, the City desires (i) to reallocate certain proceeds of the 1999 Bond to pay for a portion of the costs of the 2008 Additional Projects and (ii) to reallocate a portion of the 1999 Bond proceeds previously allocated to the Northeast Collector Road Water Main project by Ordinance No. 1890 to the Wor-Wic Project under the Water Fund subheading, all as described herein.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that pursuant to the authority of the Enabling Act, the Charter and Ordinance No. 1724, the City hereby supplements Ordinance No. 1724, as previously amended by Ordinance No. 1890, in order to provide that proceeds of the 1999 Bond shall be allocated to finance or reimburse costs (as such term is used in Section 1 of Ordinance No. 1724) of the 2008 Additional Projects and that proceeds of the 1999 Bond shall be reallocated among the 2004 Revised Projects and the 2008 Additional Projects as follows:

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<u>2004 Revised Projects/2008 Additional Projects</u>	<u>Original Amount – 2004 Revised Projects</u>	<u>Amount – 2008 Additional Project</u>	<u>Adjustments</u>	<u>Revised Amount – 2008 Revised Projects</u>
<b>General Fund</b>				
1. Northeast Collector Road	\$1,365,000	N/A	--	\$1,365,000
2. Isabella Street Box Culvert	\$846,300	N/A	--	\$846,300
3. Fire Engine	\$172,900	N/A	--	\$172,900
<b>Total General Fund</b>				<b>\$2,384,200</b>
<b>Water Fund</b>				
1. Northeast Collector Road Water Main	\$720,000	N/A	(\$103,883)	\$616,117
2. Water Main Upgrade-Isabella Street	\$197,779	N/A	--	\$197,779
3. Wor-Wic Project	\$51,201	N/A	+\$26,923	\$78,124
4. Engineering/Construction of Elevated Water Tank	N/A	\$76,960	+\$76,960	\$76,960
<b>Total Water Fund</b>				<b>\$968,980</b>
<b>Sewer Fund</b>				
1. Northeast Collector Road Sewer Main	\$726,761	N/A	(\$50,165)	\$676,596
2. Sewer Main Upgrade-Isabella Street	\$101,136	N/A	--	\$101,136
3. Wor-Wic Project	\$625,543	N/A	--	\$625,543
4. Engineering/Construction of Pump Station Odor Control Improvements	N/A	\$50,165	+\$50,165	\$50,165
<b>Total Sewer Fund</b>				<b>\$1,453,440</b>
<b>Costs of Issuance and Contingency</b>	\$53,380	N/A	--	<b>\$53,380</b>
		<b>TOTAL</b>		<b>\$4,860,000</b>

The projects identified under the column “2004 Revised Projects/2008 Additional Projects” above are collectively referred to herein as the “2008 Revised Projects”. From and after the effective date of this Ordinance, all references to the Public Improvement Projects in Ordinance No. 1724 or the projects identified in Ordinance No. 1890 shall be deemed to be references to the 2008 Revised Projects, as identified in this Ordinance. From and after the effective date of this Ordinance, the provisions of this Section 1 shall supersede the provisions of the Recitals of and Section 1 of Ordinance No. 1724 and the provisions of Ordinance No. 1890 with respect to the application of proceeds of the 1999 Bond.

**SECTION 2.** BE IT FURTHER ORDAINED that the Mayor and the Director of Internal Services are hereby authorized and empowered to supplement the Tax and Section 148 Certificate dated May 18, 1999, executed and delivered in connection with the issuance of the 1999 Bond, in order to evidence the expectations of the City as to the application of the proceeds of the 1999 Bond following the effective date of this Ordinance.

SECTION 3. BE IT FURTHER ORDAINED that the Mayor, the City Administrator, the Director of Internal Services, the City Clerk and all other appropriate officials and employees of the City, as applicable, are hereby authorized and directed to take any and all action necessary to provide for application of the proceeds of the 1999 Bond to finance, refinance or reimburse the costs of the 2008 Revised Projects and to execute and deliver all documents, certificates and instruments necessary or appropriate in connection therewith or in connection with the transactions contemplated by this Ordinance.

SECTION 4. BE IT FURTHER ORDAINED that from and after the effective date of this Ordinance, Ordinance No. 1724, as amended by Ordinance No. 1890, shall be deemed supplemented as provided herein and all other terms and provisions of Ordinance No. 1724, as amended by Ordinance No. 1890, shall remain in full force and effect.

SECTION 5. BE IT FURTHER ORDAINED that the title of this Ordinance shall be deemed to be, and is, a fair statement of the substance of this Ordinance for publication and all other purposes.

SECTION 6. BE IT FURTHER ORDAINED that this Ordinance shall become effective following approval by the Mayor or subsequent passage by the Council in accordance with the provision of Section SC2-12 of the Charter. Pursuant to Charter Section SC2-16, this Ordinance shall not be subject to petition to referendum.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, and thereafter, a statement of the substance of this Ordinance having been published as required by law, was finally passed by the Council \_\_\_\_\_ [as introduced] \_\_\_\_\_ [as amended] [CHECK APPLICABLE LINE] on the \_\_\_\_\_ day of \_\_\_\_\_, 2008.

ATTEST:

\_\_\_\_\_  
Brenda J. Colegrove  
CITY CLERK

\_\_\_\_\_  
Louise Smith  
PRESIDENT, City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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Barrie P. Tilghman  
MAYOR, City of Salisbury

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