

Ordinance No. 2069

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SALISBURY ENTITLED AN ORDINANCE SUPPLEMENTING ORDINANCE NO. 2044, PASSED BY THE COUNCIL ON DECEMBER 17, 2007, APPROVED BY THE MAYOR ON DECEMBER 19, 2007 AND EFFECTIVE ON DECEMBER 19, 2007, IN ORDER TO AUTHORIZE AND EMPOWER CITY OF SALISBURY TO USE AND APPLY A PORTION OF THE PROCEEDS OF THE \$3,605,000 CITY OF SALISBURY PUBLIC IMPROVEMENTS BOND OF 2008 ISSUED ON JANUARY 22, 2008 (THE "2008 BOND") FOR THE PUBLIC PURPOSE OF FINANCING, REIMBURSING OR REFINANCING ENGINEERING COSTS OF A WATER STORAGE PROJECT, WITHOUT LIMITATION AS TO ITS GEOGRAPHIC LOCATION; 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 2008 BOND.

RECITALS

WHEREAS, City of Salisbury, a municipal corporation of the State of Maryland (the "City"), is authorized and empowered by Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Enabling Act"), and Sections SC7-45 and SC7-46 of the Charter of the City of Salisbury, as published in Municipal Charters of Maryland, Volume 6, 1990 Replacement Edition, as replaced, supplemented or amended (the "Charter"), to borrow money for any proper public purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds; and

WHEREAS, pursuant to Ordinance No. 2044, adopted by the Council of the City on December 17, 2007, approved by the Mayor on December 19, 2007 and effective on December 19, 2007 (the "Original Ordinance"), the City authorized general obligation bonds to be issued from time to time in one or more series in an aggregate principal amount not to exceed Four Million One Hundred Twenty-nine Thousand Dollars (\$4,129,000) (the "Authorized Bonds") in order to finance, reimburse or refinance the "costs" (as identified in Section 3 of the Original Ordinance) of the following projects identified in Section 3(b) of the Original Ordinance:

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Ordinance No. 2069

<u>Project Description</u>	<u>Maximum Principal Amount</u>
1. Waverly Drive Storm Sewer Project	\$ 1,300,000.00
2. Fire Station #2 - Renovations	90,000.00
3. Fire Station #16 - Truck Replacement	950,000.00
4. Riverwalk – Engineering for Repairs Along Wicomico River East Prong	100,000.00
5. Beaverdam Drive Bridge - Repairs	322,000.00
6. Mill Street Bridge - Repairs	327,000.00
7. Salisbury Zoo – Animal Health Building Construction	500,000.00
8. Elevated Water Tower/North - Engineering	500,000.00
9. Costs of Issuance	40,000.00
Total	<u>\$ 4,129,000.00</u>

and the projects set forth above are herein referred to as the “Authorized Projects” and are referred to as the “Projects” in the Original Ordinance; and

WHEREAS, pursuant to Resolution No. 1620, adopted by the Council of the City on January 14, 2008, approved by the Mayor on January 15, 2008 and effective on January 15, 2008 (the “Original Resolution”), the City determined to borrow money for the public purpose of financing or reimbursing “costs” (as identified in Section 2 of the Original Resolution) of certain of the Authorized Projects, and to evidence this borrowing by the issuance and sale of its Public Improvements Bond of 2008 in the principal amount of Three Million Six Hundred Five Thousand Dollars (\$3,605,000) (the “2008 Bond”); and

WHEREAS, pursuant to the Enabling Act, the Charter, the Original Ordinance and the Original Resolution, the City issued and delivered the 2008 Bond to SunTrust Equipment Finance & Leasing Corporation on January 22, 2008; and

WHEREAS, Section 2 of the Original Resolution provides that proceeds of the 2008 Bond shall be appropriated and allocated to the following Authorized Projects, subject to the further provisions of such Section 2, as follows:

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Ordinance No. 2069

<u>Project Description</u>	<u>Maximum Principal Amount</u>
1. Waverly Drive Storm Sewer Project	\$ 1,300,000.00
2. Fire Station #2 – Renovations	90,000.00
3. Fire Station #16 - Truck Replacement	950,000.00
4. Riverwalk – Engineering for Repairs Along Wicomico River East Prong	100,000.00
5. Beaverdam Drive Bridge – Repairs	322,000.00
6. Mill Street Bridge – Repairs	327,000.00
7. Elevated Water Tower/North – Engineering	500,000.00
8. Costs of Issuance	16,000.00
Total	<u>\$ 3,605,000.00</u>

and the projects set forth above are referred to as the “Projects” in the Original Resolution; and

WHEREAS, since the passage of the Original Ordinance and the Original Resolution and the issuance of the 2008 Bond, the City has determined that instead of applying \$500,000.00 of the proceeds of the 2008 Bond (exclusive of investment earnings that may be applied for such purpose) to the project identified as “Elevated Water Tower/North – Engineering” in both the Original Ordinance and the Original Resolution, the City will apply such 2008 Bond proceeds to engineering costs for water storage that may involve a water tank, a water tower or some other type of improvement for water storage and that may be located in a different geographic area of the City other than the northern area and, therefore, desires to modify the description of such project and to remove the geographic reference to such project as contained in the Original Ordinance and the Original Resolution (the “2008 Modified Project”); and

WHEREAS, by issuance of the 2008 Bond, the City did not exhaust all of the bonding authority provided for in the Original Ordinance, but the Original Resolution provides that the maximum principal amount of Authorized Bond proceeds to be applied to the water tower project authorized by the Original Ordinance, as modified by this Ordinance, is allocated entirely to the 2008 Bond; and

WHEREAS, accordingly, the City desires to revise the description of the Authorized Projects as set forth in the Original Ordinance in order to allow proceeds of the 2008 Bond to be applied to costs of the 2008 Modified Project.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that (a) pursuant to the authority of the Enabling Act, the Charter and the Original Ordinance, Section 3(b) of the Original Ordinance is hereby deleted in its entirety and inserted in place thereof shall be the following:

Ordinance No. 2069

(b) With respect to the projects listed below, the word “costs” as used in Section 2 hereof shall include, as applicable, land and right-of-way acquisition and development; site and utility improvements; acquisition, construction, expansion, reconstruction, replacement, renovation, rehabilitation, improvement, installation, furnishing and equipping activities and expenses; planning, design, engineering, architectural, feasibility, surveying, financial and legal expenses; costs of issuance (which may include costs of bond insurance or other credit enhancement); interest during construction and for a reasonable period thereafter (whether or not expressly so stated); and any such costs that may represent the City’s share or contribution to the financing, reimbursement or refinancing of any such project. The total Bond (or BAN, as identified in Section 7 hereof) funds to be appropriated or applied to the costs of such projects (exclusive of any investment earnings that may be applied for such purposes) shall be allocated among the following public purpose projects in the maximum principal amount set forth opposite each, except as otherwise herein provided:

<u>Project Description</u>	<u>Maximum Principal Amount</u>
1. Waverly Drive Storm Sewer Project	\$ 1,300,000.00
2. Fire Station #2 – Renovations	90,000.00
3. Fire Station #16 - Truck Replacement	950,000.00
4. Riverwalk – Engineering for Repairs Along Wicomico River East Prong	100,000.00
5. Beaverdam Drive Bridge – Repairs	322,000.00
6. Mill Street Bridge – Repairs	327,000.00
7. Salisbury Zoo – Animal Health Building Construction	500,000.00
8. Water Storage – Engineering	500,000.00
9. Costs of Issuance	<u>40,000.00</u>
Total	<u>\$ 4,129,000.00</u>

The projects identified in items 1-9 above are collectively referred to herein as the “Projects”. The City, without notice to or the consent of any holders of the Bonds (or the holders of any of the BANs, as applicable), may reallocate the maximum principal amount of the Bonds (and of any of the BANs, as applicable) to be spent among any of the Projects identified herein in compliance with applicable budgetary procedures or applicable law.

(b) By undertaking the amendments to Section 3(b) of the Original Ordinance provided for in subsection (a) of this Section 1, the City is revising the description of the Authorized Project identified as number 8 in Section 3(b) of the Original Ordinance to allow flexibility in the type of water storage for which engineering costs are funded and to remove the geographic limitation on where such project may be undertaken. The projects identified in the chart set forth in subsection

Ordinance No. 2069

(a) above are collectively referred to herein as the "2008 Revised Projects". From and after the effective date of this Ordinance, all references to the Projects in the Original Ordinance 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 3 of the Original Ordinance with respect to the application of proceeds of the Authorized Bonds.

(c) Notwithstanding the foregoing provisions of this Section 1, proceeds of the 2008 Bond may not be applied to costs of the 2008 Modified Project unless and until the City adopts a resolution making corresponding amendments to the provisions of Section 2 of the Original Resolution to allow proceeds of the 2008 Bond to be applied to costs of the 2008 Modified Project.

SECTION 2. BE IT FURTHER ORDAINED that from and after the effective date of this Ordinance, the Original Ordinance shall be deemed supplemented as provided herein and all other terms and provisions of the Original Ordinance shall remain in full force and effect.

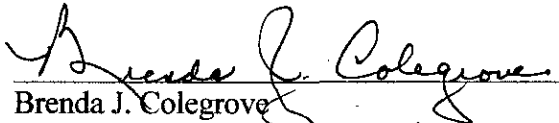
SECTION 3. BE IT FURTHER ORDAINED that the title of this Ordinance shall be deemed to be, and is, a fair statement of the substance of this Ordinance for publication and all other purposes.

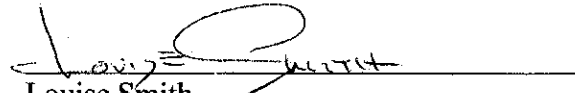
SECTION 4. BE IT FURTHER ORDAINED that this Ordinance shall become effective following approval by the Mayor or subsequent passage by the Council following the Mayor's veto in accordance with the provision of Section SC2-12 of the Charter; provided, however, in the event the City fails to adopt a resolution making corresponding amendments to the provisions of Section 3 of the Original Ordinance to allow proceeds of the 2008 Bond to be applied to costs of the 2008 Modified Project, the City may not apply proceeds of the 2008 Bond for such purpose, notwithstanding the effective date of this Ordinance. Pursuant to Charter Section SC2-16, this Ordinance shall not be subject to petition to referendum.

Ordinance No. 2069

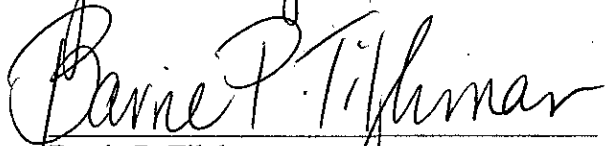
THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the 8<sup>th</sup> day of December, 2008, a public hearing was held on the 22<sup>nd</sup> day of December, 2008, and thereafter, a statement of the substance of this Ordinance having been published as required by law, was finally passed by the Council as introduced on the 12<sup>th</sup> day of January, 2009.

ATTEST:

  
Brenda J. Colegrove  
CITY CLERK

  
Louise Smith  
PRESIDENT, City Council

Approved by me this 13<sup>th</sup> day of  
January, 2009.

  
Barrie P. Tilghman  
MAYOR, City of Salisbury

#118402;58111.001

# Memo

**To:** John R. Pick, City Administrator  
**From:** Pamela B. Oland, Director of Internal Services  
**Date:** December 2, 2008  
**Re:** FY 2008 Bond Amendment

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When issued, the FY 2008 General Obligation bond intended for a \$500,000 to be used to engineer an elevated water tower in the north end of town. Since that time, we have received our water and sewer master plan and have discussed our water storage needs with the State of Maryland. The City still has a need for additional water storage, but it has been determined that instead of an elevated water tower, that an above ground water tank, located on the Paleo Water Plant grounds would be an appropriate water storage method. To proceed, the City needs to amend the original ordinance and resolution to update the language from "Elevated Water Tower/North – Engineering" to now read "Water Storage – Engineering". Attached to the memo is the amending ordinance allowing the adjustment to the bond proceeds. When the ordinance is presented for second reading, the resolution to update the language will also be on the agenda.

If you have any questions, please let me know.