

Resolution No. 1750

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY ENTITLED A RESOLUTION SUPPLEMENTING RESOLUTION NO. 1620, PASSED BY THE COUNCIL ON JANUARY 14, 2008, APPROVED BY THE MAYOR ON JANUARY 15, 2008 AND EFFECTIVE ON JANUARY 15, 2008, 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 OR REIMBURSING ENGINEERING COSTS OF A WATER STORAGE PROJECT, WITHOUT LIMITATION AS TO ITS GEOGRAPHIC LOCATION; AUTHORIZING, DIRECTING OR EMPOWERING CITY OFFICIALS AND EMPLOYEES TO TAKE CERTAIN ACTIONS WITH RESPECT TO THE 2008 BOND; 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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<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	<u>40,000.00</u>
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 provisions of such Section 2, as follows:

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<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 herein referred to as the “Original Projects” and 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 a subsequent ordinance as contemplated by this Resolution, is allocated entirely to the 2008 Bond; and

WHEREAS, accordingly, the City desires to revise the description of the Original Projects as set forth in the Original Resolution 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 RESOLVED 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 Resolution, Section 2(a) of the Original Resolution is hereby deleted in its entirety and inserted in place thereof shall be the following:

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SECTION 2. BE IT FURTHER RESOLVED that (a) pursuant to the authority of the Enabling Act, the Charter and the Ordinance, the City hereby determines to borrow money and incur indebtedness for the public purpose of financing or reimbursing the costs of the following public purpose projects in the maximum principal amount set forth opposite each such project, subject to subsection (c) below:

<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. Water Storage - Engineering	500,000.00
8. Costs of Issuance	16,000.00
Total	<u>\$ 3,605,000.00</u>

The projects identified in items 1 - 8 above are collectively referred to herein as the “Projects”.

(b) By undertaking the amendments to Section 2(a) of the Original Resolution provided for in subsection (a) of this Section 1, the City is revising the description of the Original Project identified as number 7 in Section 2(a) of the Original Resolution 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 (a) above are collectively referred to herein as the “2008 Revised Projects”. From and after the effective date of this Resolution, all references to the Projects in the Original Resolution shall be deemed to be references to the 2008 Revised Projects, as identified in this Resolution. From and after the effective date of this Resolution, the provisions of this Section 1 shall supersede the provisions of the Recitals of and Section 2 of the Original Resolution with respect to the application of proceeds of the 2008 Bond.

(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 enacts an ordinance 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.

SECTION 2. BE IT FURTHER RESOLVED that, subject to the provisions of Section 1(c) of this Resolution, the Mayor and the Director of Internal Services are hereby authorized and empowered to supplement the Tax and Section 148 Certificate dated January 22, 2008, executed

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and delivered in connection with the issuance of the 2008 Bond, in order to evidence the expectations of the City as to the application of the proceeds of the 2008 Bond following the effective date of this Resolution.

SECTION 3. BE IT FURTHER RESOLVED that, subject to the provisions of Section 1(c) of this Resolution, 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 2008 Bond to finance 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 Resolution.

SECTION 4. BE IT FURTHER RESOLVED that, subject to the provisions of Section 1(c) of this Resolution, from and after the effective date of this Resolution, the Original Resolution shall be deemed supplemented as provided herein and all other terms and provisions of the Original Resolution shall remain in full force and effect.

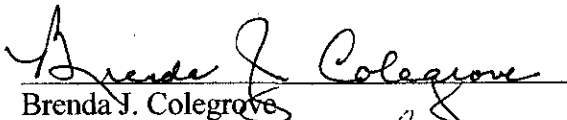
SECTION 5. BE IT FURTHER RESOLVED that this Resolution shall become effective upon adoption by the Council and approval by the Mayor; provided, however, in the event the City fails to enact an ordinance making corresponding amendments to the provisions of Section 3 of the Original Ordinance to allow 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 Resolution. Pursuant to Charter Section SC7-46A, this Resolution may not be petitioned to referendum.

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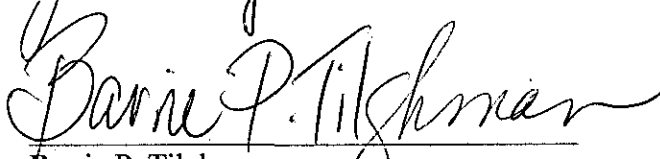
THIS RESOLUTION was introduced and read at a meeting of the Council of the City of Salisbury held on the 12th day of January, 2009, and was adopted by the Council as introduced on the 12th day of January, 2009.

ATTEST:


Brenda J. Colegrove
CITY CLERK


Louise Smith
PRESIDENT, City Council

Approved by me this 13th day of
January, 2009


Barrie P. Tilghman
MAYOR, City of Salisbury