

AS AMENDED ON APRIL 12, 2010
Resolution No. 1905

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY PROVIDING FOR THE ISSUANCE AND SALE BY CITY OF SALISBURY (THE "CITY"), UPON ITS FULL FAITH AND CREDIT, OF A GENERAL OBLIGATION PROMISSORY NOTE IN THE PRINCIPAL AMOUNT OF TWO HUNDRED FIFTY-EIGHT THOUSAND SEVEN HUNDRED FORTY DOLLARS (\$258,740.00) (THE "NOTE") TO EVIDENCE A LOAN TO THE CITY FROM THE MARYLAND ENERGY ADMINISTRATION (THE "ADMINISTRATION") THROUGH THE JANE E. LAWTON CONSERVATION FUND, SUCH NOTE TO BE ISSUED AND SOLD AND THE PROCEEDS THEREOF TO BE USED AND APPLIED FOR THE PUBLIC PURPOSE OF FINANCING, REIMBURSING OR REFINANCING COSTS INCURRED IN CONNECTION WITH THE REPLACEMENT OF CONVENTIONAL TRAFFIC SIGNAL LIGHT BULBS WITH LIGHT-EMITTING DIODE (LED) TECHNOLOGY BULBS AND FIXTURES IN ORDER TO ACHIEVE ENERGY COST SAVINGS AND A REDUCTION IN MAINTENANCE AND CONVENTIONAL BULB REPLACEMENT COSTS; PRESCRIBING, APPROVING AND ADOPTING THE FORM AND TENOR OF THE NOTE, THE TERMS AND CONDITIONS FOR THE ISSUANCE AND SALE OF THE NOTE BY PRIVATE (NEGOTIATED) SALE WITHOUT ADVERTISEMENT OR SOLICITATION OF COMPETITIVE BIDS TO THE ADMINISTRATION, AND ALL OTHER DETAILS INCIDENT THERETO, AND AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY, TO ADJUST AND FIX CERTAIN DETAILS OF THE NOTE; APPROVING, AND AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF, A LOAN AGREEMENT WITH THE ADMINISTRATION PURSUANT TO WHICH ADVANCES WILL BE MADE UNDER THE NOTE; AUTHORIZING AND DIRECTING CERTAIN OFFICIALS AND EMPLOYEES OF THE CITY TO TAKE ANY AND ALL ACTION NECESSARY TO COMPLETE AND CLOSE THE SALE AND DELIVERY OF THE NOTE AND TO CARRY OUT THE PROVISIONS OF THE PROGRAM STATUTE IDENTIFIED HEREIN, THE LOAN AGREEMENT AND THE NOTE; PROVIDING FOR THE DISBURSEMENT OF ADVANCES OF THE NOTE; PROVIDING FOR THE LEVY AND COLLECTION OF AD VALOREM TAXES SUFFICIENT FOR THE PROMPT PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTE; PLEDGING THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE CITY TO THE PROMPT PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTE; PROVIDING THAT THE PRINCIPAL OF AND INTEREST ON THE NOTE ALSO MAY BE PAID FROM ANY OTHER SOURCES OF REVENUE LAWFULLY AVAILABLE TO THE CITY FOR SUCH PURPOSE; AND OTHERWISE GENERALLY RELATING TO THE ISSUANCE, SALE, DELIVERY AND PAYMENT OF AND FOR THE NOTE.

RECITALS

WHEREAS, Sections 9-20A-01 through 9-20A-10, inclusive, of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Program Statute") provide for financial assistance in the form of low-interest loans through the Jane E. Lawton Conservation Program (the "Program") to various classes of borrowers in order to promote energy conservation, the development and use of renewable energy resources in the State of Maryland (the "State"), self-sustaining buildings and emergency generating units that use renewable energy resources and the

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infrastructure for renewable energy generation in the State; reduce consumption of fossil fuels; improve energy efficiency; and enhance energy-related economic development and stability in business, commercial and industrial sectors; and

WHEREAS, pursuant to the Program, the Maryland Energy Administration (the "Administration") is authorized to make a loan to a Maryland municipal corporation (identified in the Program Statute as a "municipality") of moneys from the Jane E. Lawton Conservation Fund (the "Fund"); and

WHEREAS, the types of "projects" for which loans can be made from the Fund pursuant to the Program include (i) one or more improvements or modifications that enhance the energy efficiency and reduce the operating expenses of a structure or (ii) installation of infrastructure for renewable energy generation by local jurisdictions and nonprofit organizations; and

WHEREAS, loans made under the Program may be used for (i) the costs of implementing projects, including the costs of all necessary technical assessments, studies, surveys, plans and specifications, and start-up, architectural, engineering or other special services; (ii) the costs of procuring necessary technology, equipment, licenses or materials; and (iii) the costs of construction, rehabilitation or modification, including the purchase and installation of any necessary machinery, equipment or furnishings; and

WHEREAS, each borrower is required to make a contribution to a project of a type and in an amount satisfactory to the Administration; and

WHEREAS, loans made under the Program shall be repayable by a borrower from specified revenues; and

WHEREAS, City of Salisbury, a municipal corporation of the State (the "City"), has applied to the Program for a loan from the Fund in order to fund costs of converting City traffic signal bulb fixtures to light-emitting diode (LED) technology, and has demonstrated to the Administration's satisfaction that such project is expected to result in estimated savings of approximately \$25,973.66 per year in electricity costs and approximately \$34,286.09 per year in maintenance and conventional bulb replacement costs; and

WHEREAS, the Administration has determined that the City's intended project qualifies as a "project" for purposes of the Program and to make a loan to the City from the Fund; and

WHEREAS, the loan will be evidenced by a loan agreement between the Administration and the City and by a promissory note of the City payable to the Administration, and the Administration is requiring the City to pledge its full faith and credit and unlimited taxing power to the repayment of the promissory note; and

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WHEREAS, because the Program Statute does not contain express authority for the City to pledge its full faith and credit and unlimited taxing power to the repayment of the promissory note, the City must comply with applicable general obligation debt creation procedures; and

WHEREAS, 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 7, 2008 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, notes or other evidences of indebtedness; and

WHEREAS, pursuant to an Ordinance passed pursuant to the authority of the Program Statute, the Enabling Act and the Charter by the Council of the City (the "Council") prior to the introduction of this Resolution (the "Ordinance"), the City authorized the issuance and sale, upon its full faith and credit, of a general obligation indebtedness in the form of a promissory note in a maximum principal amount not to exceed Two Hundred Fifty-eight Thousand Seven Hundred Forty Dollars (\$258,740.00); and

WHEREAS, the Ordinance provides that the proceeds of the loan evidenced by such promissory note are to be used and applied for the public purpose of achieving electricity cost savings and reducing maintenance and conventional bulb replacement costs by financing, reimbursing or refinancing costs incurred in connection with the replacement of approximately 761 conventional traffic signal light bulbs with light-emitting diode (LED) technology bulbs and fixtures, including costs of related purchase, installation, equipping and other activities, all to the extent permitted by the Administration and the Program Statute (including the COMAR provisions relating thereto) (collectively, the "Project"); and

WHEREAS, in accordance with Section SC7-46 of the Charter, the Ordinance provides that the Council shall adopt a resolution determining or providing for certain details concerning such promissory note and the loan from the Administration; and

WHEREAS, the Director of Internal Services of the City (the "Director of Internal Services") has advised that issuance of the Note identified herein shall not cause the City to violate the debt limit set forth in Section SC7-48 of the Charter.

SECTION 1. NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that the Recitals to this Resolution are incorporated by reference herein and deemed a substantive part of this Resolution. Capitalized terms used in

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Sections 2 - 11 of this Resolution and not otherwise defined herein shall have the meanings given to such terms in the Recitals.

SECTION 2. BE IT FURTHER RESOLVED that pursuant to the authority of the Program Statute, the Enabling Act, the Charter and the Ordinance, the City hereby determines to issue and sell, upon its full faith and credit, a general obligation indebtedness in the form of a promissory note for the public purpose of financing, reimbursing or refinancing costs of the Project. Such promissory note shall be issued in the principal amount of Two Hundred Fifty-eight Thousand Seven Hundred Forty Dollars (\$258,740.00) (the "Note"). The Note shall evidence the loan made by the Administration to the City of moneys from the Fund in the principal amount of Two Hundred Fifty-eight Thousand Seven Hundred Forty Dollars (\$258,740.00) (the "Loan"), and the Administration shall advance proceeds of the Loan to the City in accordance with the provisions of the Loan Agreement identified in Section 7.

SECTION 3. BE IT FURTHER RESOLVED that (a) the Note shall be issued and sold upon the full faith and credit of the City and shall be dated the date of its delivery.

(b) Subject to subsections (d), (e) and (h) below, the principal advanced under the Loan Agreement shall be repaid in eighteen (18) semi-annual installments of Fourteen Thousand Three Hundred Seventy-four Dollars and Forty-four Cents (\$14,374.44) each, commencing on the date that is thirteen (13) months after the initial disbursement of Loan proceeds under the Loan Agreement, and continuing on the same day of each succeeding sixth month to and including the date that is one hundred eight (108) months after such initial disbursement. Prior to execution and delivery of the Note, the Mayor, on behalf of the City, is hereby authorized and empowered to make changes to the foregoing amortization schedule in terms of payment amounts and dates as required by the Administration in order to comply with Program requirements, such approval and changes to be evidenced conclusively by the Mayor's execution and delivery of the Note in accordance with the provisions of Section 5 of this Resolution.

(c) The Note, or so much of the principal amount thereof as shall have been advanced from time to time under the terms of the Loan Agreement, shall bear interest from its dated date at an annual rate of interest equal to zero percent (0.0%) per annum. Accordingly, no actual interest shall be due on the Note except to the extent interest on overdue installments of principal and interest is due in accordance with the provisions of the Loan Agreement, as more particularly described in subsection (f) below.

(d) Disbursement of Note proceeds is subject to the continuing availability of funds for such purpose, the State's fiscal position, the Administration's financial resources, and compliance with applicable laws. To the extent the Administration reduces the amount of undisbursed Note proceeds as provided for in the Loan Agreement, the Mayor, on behalf of the City, with the advice of the City Administrator and the Director of Internal Services, may approve a revised repayment schedule, and the Mayor and the City Clerk may execute and attest, as applicable

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(in the manner provided in Section 5 hereof for the original delivery of the Note), and deliver a new Note evidencing any reduction in the repayment schedule or the Administration may deliver, and the Mayor, on behalf of the City, shall acknowledge in writing, a certificate setting forth such reamortized repayment schedule, which shall be attached to the Note and shall replace and supersede for all purposes the foregoing repayment schedule. The Mayor, on behalf of the City, is hereby authorized and directed to approve, execute and deliver any other certificates, documents or evidence relating to a reamortized repayment schedule that are required by the Administration.

(e) In accordance with COMAR 14.26.01.07.C(3), in the discretion of the Administration the repayment period for the Note is subject to adjustment in the event energy costs savings resulting from the Project do not equal or exceed the repayment schedule for the Note. Upon any such occurrence and a corresponding determination of the Administration to reamortize the repayment schedule for the Note, the Mayor, on behalf of the City, with the advice of the City Administrator and the Director of Internal Services, may approve the revised repayment schedule, and the Mayor and the City Clerk may execute and attest, as applicable (in the manner provided in Section 5 hereof for the original delivery of the Note), a new Note evidencing any adjustment in the repayment schedule or the Administration may deliver, and the Mayor, on behalf of the City, shall acknowledge in writing, a certificate setting forth such reamortized repayment schedule, which shall be attached to the Note and shall replace and supersede for all purposes the foregoing repayment schedule. The Mayor, on behalf of the City, is hereby authorized and directed to approve, execute and deliver any other certificates, documents or evidence relating to a reamortized repayment schedule that are required by the Administration.

(f) The City shall pay (i) to the extent required by the Administration, a late payment charge for any payment due under the Note that is not received by the Administration within 30 calendar days of its due date, in an amount equal to 5% of such payment, (ii) interest on the Note at the rate of five percent (5%) per annum upon an occurrence of a Default (as defined in the Loan Agreement), unless waived by the Administration, and (iii) to the extent not prohibited by applicable law, interest at the rates required under the Loan Agreement with respect to other Obligations (as defined in the Loan Agreement) owed by the City to the Administration (as identified in the Loan Agreement).

(g) Both the principal of and any interest on the Note will be paid to the Administration in immediately available funds or in such other manner as is acceptable to the Administration.

(h) The principal balance of the Note, plus accrued interest and all other sums due under the Note, shall be subject to acceleration upon a Default (as defined in the Loan Agreement) in accordance with the terms of the Note and the Loan Agreement.

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(i) The Note shall be subject to transfer as provided in the Note and the Loan Agreement.

(j) Notwithstanding the foregoing provisions of this Section 3, in the event of a discrepancy between the provisions of the Note or the Loan Agreement and this Section 3, the provisions of the Note or the Loan Agreement, as applicable, shall control.

SECTION 4. BE IT FURTHER RESOLVED that the City may prepay all or any part of the Note at any time without premium or penalty. Any prepayment of the Note shall be applied in accordance with the provisions of the Note.

SECTION 5. BE IT FURTHER RESOLVED that the Note shall be executed in the name of the City and on its behalf by the Mayor. The corporate seal of the City shall be affixed to the Note and attested by the signature of the City Clerk. In the event any official whose signature shall appear on the Note shall cease to be such official prior to the delivery of the Note, or, in the event any such official whose signature shall appear on the Note shall have become such after the date of delivery thereof, said Note shall nevertheless be a valid and binding obligation of the City in accordance with its terms.

SECTION 6. BE IT FURTHER RESOLVED that except as provided hereinafter, the Note shall be issued in substantially the form attached hereto as Exhibit A and incorporated by reference herein. Appropriate variations and insertions to provide dates, numbers and amounts, and modifications not altering its substance, including, without limitation, to reflect matters determined in accordance with Section 3 hereof, may be made by the Mayor, and the Mayor's execution and delivery of the Note shall constitute conclusive evidence of the approval of such variations, insertions and modifications. All of the covenants contained in the form attached hereto as Exhibit A, as the same may be completed as provided in this Section 6, are hereby adopted by the City as and for the form of obligation to be incurred by the City, and the covenants and conditions are hereby made binding upon the City, including the promise to pay therein contained.

SECTION 7. BE IT FURTHER RESOLVED that, pursuant to the authority of the Program Statute and Section SC7-46 of the Charter, the City hereby determines to sell the Note to the Administration by private (negotiated) sale without advertisement or solicitation of competitive bids, for a price of the par amount of the Note, such purchase price to be advanced and disbursed in accordance with the substantially final form of the Loan Agreement attached hereto as Exhibit B (the "Loan Agreement"), the terms and conditions of which Loan Agreement are hereby incorporated by reference herein and approved by and adopted as the obligations of the City. The Mayor is hereby authorized and directed to complete, execute and deliver the Loan Agreement for and in the name of the City with such changes, insertions and deletions not substantially altering the substance of the Loan Agreement as shall be approved by the Mayor, such approval to be evidenced conclusively by the Mayor's execution and delivery of the Loan Agreement. Notwithstanding anything to the contrary contained in this Resolution, advances under the Loan Agreement or the

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Note and prepayment or payment of the principal of and interest on the Note and any other sums payable by the City in connection therewith shall be made in accordance with the Loan Agreement. The City agrees to abide by and perform the covenants and agreements set forth in the Loan Agreement as finally executed and delivered in accordance with this Section 7 as though such covenants and agreements were set forth in full in this Resolution.

SECTION 8. BE IT FURTHER RESOLVED that (a) as soon as may be practicable after the adoption of this Resolution, the Note shall be suitably prepared in definitive form, executed and delivered to the Administration.

(b) The Mayor, the City Administrator, the Director of Internal Services, the City Clerk and all other appropriate officials and employees of the City are expressly authorized, empowered and directed to take any and all action necessary to complete and close the sale, issuance and delivery of the Note to the Administration and to negotiate, approve, execute and deliver all closing documents, certificates and instruments necessary or appropriate in connection therewith.

(c) Any two of the President of the Council, the Vice-President of the Council, the Director of Internal Services and the Assistant Director of Internal Services-Finance of the City are hereby expressly authorized to take any necessary actions under the Loan Agreement or the Note in order to requisition advances on behalf of the City; provided that, if Section SC7-25 of the Charter is amended to authorize different or additional City officials to requisition advances under the Loan Agreement or the Note, such different or additional officials are hereby authorized to take such actions.

(d) The appropriate officials and employees of the City are hereby authorized and directed to undertake on behalf of the City such monitoring, reporting or additional activities as may be required by the Program Statute (including the COMAR regulations relating thereto) or to carry out the provisions of the Loan Agreement or the Note and to provide for or document any transfer of the Note.

SECTION 9. BE IT FURTHER RESOLVED that each advance of the proceeds of the Note shall be paid directly to the City and shall be deposited by the Director of Internal Services or other appropriate City official in the proper municipal accounts, or shall be paid at the direction of the appropriate City official or officials, or shall be paid as otherwise required by the Administration. Advances under the Note shall be used and applied by the City exclusively and solely for the public purpose described in Section 2 hereof. Nothing in this Resolution shall be construed to authorize the expenditure of any moneys except for a proper public purpose. The proceeds of the Note are hereby appropriated for the purposes set forth in this Resolution.

SECTION 10. BE IT FURTHER RESOLVED that (a) the City shall levy or cause to be levied, for each and every fiscal year during which the Note may be outstanding, ad valorem taxes

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upon all real and tangible personal property within its corporate limits subject to assessment for unlimited municipal taxation in rate and amount sufficient to provide for the payment, when due, of the principal of and interest on the Note payable in each such fiscal year and, in the event the proceeds from the collection of the taxes so levied may prove inadequate for such purposes in any fiscal year, additional taxes shall be levied in the subsequent fiscal year to make up any deficiency.

(b) The full faith and credit and unlimited taxing power of the City are hereby irrevocably pledged to the prompt payment of the principal of and interest on the Note as and when the same are payable and to the levy and collection of the taxes hereinabove described as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements of the Note. The City hereby covenants with the registered owner of the Note to take any action that may be appropriate from time to time during the period that the Note remains outstanding and unpaid to provide the funds necessary to pay promptly the principal and interest due thereon.

(c) The foregoing provisions shall not be construed so as to prohibit the City from paying the principal of and interest on the Note from the proceeds of the sale of any other obligations of the City or from any other funds legally available for that purpose. The City may apply to the payment of the principal of or interest on the Note any funds received by it from the State or the United States of America, or any governmental agency or instrumentality, or from any other source, if the funds are granted or paid to the City for the purpose of assisting the City in accomplishing the type of project which the Note is issued to finance or refinance, including (without limitation) to the extent the same are identifiable subject to applicable budgetary procedures, the energy cost savings achieved by the Project, and to the extent of any such funds received or receivable in any fiscal year, the taxes hereby required to be levied may be reduced proportionately.

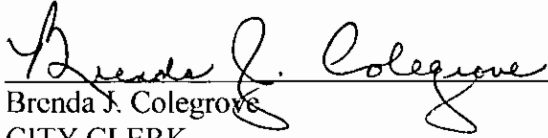
SECTION 11. BE IT FURTHER RESOLVED that this Resolution shall become effective (i) upon adoption by the Council and approval by the Mayor or (ii) contemporaneously with the effective date of the Ordinance, whichever is the later to occur. Pursuant to Section SC7-46A of the Charter, this Resolution may not be petitioned to referendum.


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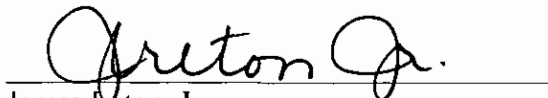
THIS RESOLUTION was introduced, read and adopted at a meeting of the Council of the City of Salisbury held on the 12th day of April, 2010.

ATTEST:


Brenda J. Colegrove
CITY CLERK


Louise Smith
PRESIDENT, City Council

Approved by me this 12th day of
April, 2010.


James Henton, Jr.
MAYOR, City of Salisbury

#126903;58111.018

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EXHIBIT A

FORM OF NOTE

[See Attached]

JANE E. LAWTON CONSERVATION LOAN PROGRAM

PROMISSORY NOTE

\$258,740.00
(Financed Amount)

_____, 2010
Annapolis, Maryland

FOR VALUE RECEIVED, City of Salisbury, a municipal corporation of the State of Maryland (the "Borrower"), promises to pay to the order of the **MARYLAND ENERGY ADMINISTRATION**, an independent agency of the State of Maryland (the "Administration"), the principal sum of Two Hundred Fifty Eight Thousand Seven Hundred Forty Dollars and Zero Cents (\$258,740.00) (the "Loan"), or so much as has been disbursed to the Borrower under the terms of a Loan Agreement of even date herewith between the Borrower and the Administration (the "Loan Agreement"), together with interest thereon at the rate or rates hereafter specified and all other sums that may be payable to the Administration by the Borrower pursuant to this Promissory Note (the "Note"). All capitalized terms used in this Note, if not defined in this Note, have the meanings given in the Loan Agreement. The following terms shall apply to this Note.

1. Interest.

(a) Interest Rate. Prior to a Default, as defined in Section 8 below, the unpaid principal balance outstanding pursuant to this Note shall bear interest at the rate of **zero percent (0%)** per annum.

(b) Default Rate. Upon the occurrence of a Default, the unpaid principal balance outstanding pursuant to this Note shall bear interest at the rate of **five percent (5%)** per annum.

2. Calculation of Interest. All interest payable under the terms of this Note shall be calculated on the basis of a 360-day year and the actual number of days elapsed.

3. Repayment.

(a) Beginning on the day that is thirteen (13) months after initial disbursement of the Loan proceeds under the Loan Agreement ("Initial Disbursement"), and continuing on the same day of each succeeding sixth month to and including the day that is one hundred eight (108) months after Initial Disbursement (the "Maturity Date"), the Borrower shall repay the principal amount of the Loan, together with any accrued interest thereon. Payments shall be in equal, consecutive installments, each consisting of a payment of principal and a payment of accrued interest in the amounts set forth in an amortization schedule to be provided to the Borrower by the Administration, attached as Exhibit E to the Loan Agreement; and

(b) The Borrower shall pay any remaining principal balance, accrued and unpaid interest and any other amounts outstanding under the Financing Documents on the Maturity Date, on which date this Note shall mature, and on which date the entire unpaid principal balance and accrued and unpaid interest thereon shall be due and payable.

4. Late Payment Charge. If any payment due hereunder is not received by the Administration within 30 calendar days after its due date, the Administration may require the Borrower to pay a late payment charge equal to five percent (5%) of the amount then due.

5. Application of Payments.

(a) Scheduled Payments. All scheduled payments made pursuant to this Note shall be applied first to accrued interest, then to principal, and then to late payments, charges or other sums owed to the Administration, or in any other manner that the Administration, in its sole discretion, may determine.

(b) Prepayments. The Administration may apply any prepayment, whether voluntary or involuntary, first to late charges and fees, then to accrued interest and default interest, and then to principal in the inverse order of scheduled maturities, or in any other manner that the Administration, in its sole discretion, may determine.

6. Prepayment. The Borrower may prepay all or part of this Note at any time without premium or penalty.

7. Place of Payment. All payments due under this Note, and all prepayments, shall be delivered to: Maryland Energy Administration, Attention: Loan Administration Division, 60 West Street, Suite 500, Annapolis, MD 21401, or to any other place that the Administration may designate in writing, and shall be made in immediately available funds in a manner acceptable to the Administration.

Defaults. The occurrence of any of the following events shall constitute a default (a "Default") under the terms of this Note:

(a) The failure of the Borrower to pay the Administration when due any amounts payable by the Borrower to the Administration under the terms of this Note; or

(b) The occurrence of a default under the terms of the Loan Agreement or any of the other Financing Documents (as defined in the Loan Agreement), which default remains uncured beyond any applicable grace or cure period.

9. Acceleration. Upon a Default, the Administration, in its sole discretion and without further notice or demand, may declare the entire unpaid principal balance of this Note plus accrued interest and all other sums due under this Note to be immediately due and payable and may exercise any rights and remedies available under any of the Financing Documents.

10. Confession of Judgment. Upon a Default, the Borrower authorizes the clerk or any attorney of any court of record to appear for it and enter judgment by confession, without prior notice or opportunity for prior hearing for the Obligations then outstanding, together with interest, court costs, and attorneys' fees equal to 15% of the sum of the Obligations then outstanding. The Borrower waives and releases, to the extent permitted by law, all errors and all rights of exemption, appeal, stay of execution, inquisition, and extension upon any levy on real estate or personal property to which the Borrower may otherwise be entitled under any law. The authority to appear for and enter judgment against the Borrower may be exercised on one or more occasions, and shall not be extinguished by any judgment entered pursuant thereto. This authority may be exercised in the same or different jurisdictions, as often as the Administration determines to be necessary or desirable.

11. Consent to Jurisdiction. The Borrower irrevocably submits to the jurisdiction of any state or federal court sitting in the State of Maryland over any proceeding arising out of, or relating to, this Note. The Borrower irrevocably waives, to the fullest extent permitted by law, any objection that the Borrower may now or hereafter have to the setting of venue of any proceeding brought in any such court and any claim that any proceeding brought in any such court was brought in an inconvenient forum.

12. Service of Process. The Borrower hereby consents to process being served in any proceeding instituted in connection with this Note by (i) the mailing of a copy thereof by certified mail, postage prepaid, return receipt requested, to the Borrower at the address listed in Section 5.01 of the Loan Agreement and (ii) serving a copy thereof upon the agent designated by the Borrower as its agent for service of process. The Borrower irrevocably agrees that the service specified herein shall be deemed to be service of process upon the Borrower in any proceeding. Nothing in this Note shall affect the Administration's right to serve process in any other manner permitted by law.

13. Notices. Any notice or other communication to the Borrower or the Administration shall be deemed properly given when delivered in accordance with Section 5.01 of the Loan Agreement.

14. Expenses of Collection. If this Note is referred to the Central Collections Unit of the Maryland Department of Budget and Management after a Default, the Borrower shall pay all costs of collection, including administrative fees equal to 17% of the sum of the principal balance then outstanding and interest then due hereunder. If this Note is referred to an attorney for collection after a Default, the Borrower shall pay all costs of collection, including attorneys' fees equal to 15% of the sum of the principal balance then outstanding and interest then due hereunder.

15. Subsequent Holder. The Administration may pledge, transfer, or assign this Note and its rights under the Financing Documents. Any pledge, transfer, or assignment of rights shall also apply to any renewals, extensions or modifications. A transferee, pledgee, or assignee shall have the same rights as the Administration hereunder with respect to this Note.

16. Waiver of Protest. The Borrower, and all parties to this Note, whether maker, endorser, or guarantor, waive valuation and appraisal, presentment, demand, protest, notice of dishonor and protest.

17. Choice of Law; Modifications; Cumulative Rights; Extensions of Maturity.

(a) The Borrower acknowledges that the Administration is an independent agency of the State of Maryland, that final credit decisions with respect to the making of the Loan are made in Maryland and, that those credit decisions assume that the substantive laws of Maryland apply. Therefore, the Borrower agrees that this Note shall be governed by the laws of the State of Maryland.

(b) No modification or amendment of this Note shall be effective unless in writing signed by the Administration and the Borrower, and any modification or amendment shall apply only with respect to the specific instance involved.

(c) No waiver of any provision of this Note shall be effective unless in writing signed by the Administration. Any waiver shall apply only with respect to the specific instance involved.

(d) By accepting partial payment of any amount due and payable under this Note, the Administration does not waive the right either to require prompt payment when due of all other amounts due and payable under this Note or to exercise any rights and remedies available to it in order to collect all other amounts due and payable under this Note.

(e) Each right, power, and remedy of the Administration under this Note or under law shall be cumulative and concurrent, and the exercise of any one of them shall not preclude the simultaneous or later exercise by the Administration of any other.

(f) No failure or delay by the Administration to insist upon the strict performance of any provision of this Note or to exercise any right, power, or remedy consequent upon a breach thereof shall constitute a waiver thereof, or preclude the Administration from exercising any such right, power, or remedy.

18. Illegality. If any provision of this Note is found to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provision of this Note, but this Note shall be construed as if the invalid, illegal, or unenforceable provision had never been part of this Note, but only to the extent it is invalid, illegal, or unenforceable.

19. General Obligation. The indebtedness evidenced by this Note is an unconditional general obligation of the Borrower, to the repayment of which its full faith and credit are pledged, and the indebtedness can be collected in any lawful manner including offset against the funds otherwise payable by the State of Maryland to the Borrower, including income tax distributions.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned executes this Note under seal as Borrower as of the date written at the beginning of this Note.

(SEAL)

ATTEST:

BORROWER:

City of Salisbury

Name: Brenda J. Colegrove
Title: City Clerk

By: _____ (SEAL)
Name: James Ireton, Jr.
Title: Mayor

STATE OF MARYLAND, CITY/COUNTY OF _____, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 201__, before me, a Notary Public in the State of Maryland, personally appeared James Ireton, Jr., who acknowledged himself to be the Mayor of City of Salisbury, known or satisfactorily proven to me to be the person whose name is subscribed to this document, and acknowledged that he executed it on behalf of the _____, lawfully authorized _____.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission expires _____

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EXHIBIT B

FORM OF LOAN AGREEMENT

[See Attached]

JANE E. LAWTON CONSERVATION LOAN PROGRAM

LOAN AGREEMENT

THIS LOAN AGREEMENT (as it may be amended, this “Agreement”) is made as of this ____ day of _____, 2010, between **CITY OF SALISBURY**, a municipal corporation of the State of Maryland (the “Borrower”), and the **MARYLAND ENERGY ADMINISTRATION**, an independent agency of the State of Maryland (the “Administration”).

RECITALS

1. The Borrower is indebted to the Administration in the principal amount not to exceed Two Hundred Fifty-Eight Thousand Seven Hundred Forty Dollars and Zero Cents (\$258,740.00), plus applicable interest thereon (the “Loan”), which will be advanced to the Borrower pursuant to this Agreement. The Loan is evidenced by a Promissory Note dated the date hereof in the original principal amount of \$258,740.00 made by the Borrower and payable to the Administration (as it may be amended or replaced, the “Note”).

2. The Loan was made pursuant to the provisions of the Jane E. Lawton Conservation Loan Program (“JELLP”) codified as Sections 9-20A-01 through 9-20A-10 of the State Government Article, Annotated Code of Maryland (as amended, the “Act”).

3. The Loan proceeds shall be used by the Borrower for the activities described in Exhibit A to this Agreement (collectively, the “Project”).

4. The Council of the Borrower approves the Project and the terms of this Agreement by its enactment of an ordinance, adoption of a resolution and authorization of the execution of this Agreement.

The Administration has agreed to make the Loan to the Borrower subject to the terms and conditions of the Act, the regulations promulgated thereunder, and this Agreement.

NOW, THEREFORE, for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I DEFINITIONS

All accounting terms not specifically defined herein shall have the meanings determined by generally accepted accounting principles, consistently applied. All terms previously defined are incorporated in this Agreement by reference. Capitalized terms used in this Agreement have the meanings defined below:

“Application” means the Application from the Borrower to the Administration dated January 28, 2010, as it may be amended.

“Borrower’s Contribution” means the Borrower's contribution (i.e., cash, in-kind, equipment) towards the Project as listed in the Application’s Project Budget Worksheet.

“Claim” means any action or other claim for liability, loss, expense, or other cost, including fees, costs and expenses of attorneys, consultants, contractors, and experts.

“Commitment Letter” means the conditional commitment letter issued by the Administration in connection with the Loan dated June 8, 2009, as it may be amended.

“Draw Schedule” means the anticipated schedule for disbursement that is set forth in Exhibit D to this Agreement.

“Default” means any default under Article IV of this Agreement.

“Eligible Project Costs” means any costs described in Exhibit A to this Agreement. Eligible Project Costs must be approved by the Administration.

“Environmental Requirement” means any current or future Law or other restriction, whether public or private, that in any way pertains to human health, safety or welfare, Hazardous Materials, Hazardous Materials Contamination or the environment (including any Law or restriction dealing with ground, air, water or noise pollution or contamination, and underground or above ground tanks).

“Expenses” means all costs and expenses incurred by the Administration (whether before or after a Default) in connection with, or in exercising or enforcing any rights, powers and remedies provided in, any of the Financing Documents.

“Financing Documents” means all documents executed and delivered in connection with the Loan and the Obligations, including this Agreement, the Note, and any other document, evidencing or securing the Loan, as any of them may be amended.

“Governmental Authority” means the United States, the State, or any of their political subdivisions, agencies, or instrumentalities, including any local authority having jurisdiction over any aspect of the Project.

“Hazardous Materials” means any hazardous or toxic substances, wastes or materials, including any substance that contains asbestos, radon, polychlorinated biphenyls, urea formaldehyde, explosives, radioactive materials, or petroleum products, that, because of their quantity, concentration, or physical, chemical, or infectious characteristics, may pose a present or potential hazard or nuisance to human health, safety or welfare or to the environment.

“Hazardous Materials Contamination” means the present or future contamination of (a) any part of the Project, including soil, ground water, and air, by Hazardous Materials, or (b) any part of any other property (including soil, ground water, and air) or improvement as a result of Hazardous Materials emanating from the Project.

“Hydric Soils” means any soil category upon which building could be prohibited or restricted under any applicable Law, including any restrictions imposed by the Army Corps of Engineers based upon its guidelines concerning soil, vegetation, and effect on the ecosystem.

“Laws” means any current or future federal, state and local laws, statutes, rules, ordinances, regulations, codes, decisions, interpretations, orders, or decrees of any court or other Governmental Authority having jurisdiction.

“Lien” means any mortgage, deed of trust, pledge, security interest, assignment, judgment, lien or charge of any kind, including any conditional sale or other title retention agreement, any lease in the nature thereof, any liens or claims for liens for materials supplied or for labor or services performed, and the filing of, or agreement to give, any financing statement under the Uniform Commercial Code of any jurisdiction.

“Obligations” means all duties of payment, performance, and completion owed by the Borrower to the Administration under the Financing Documents and by law, including the obligations to:

(a) Pay all sums of money owed in connection with the Loan and any of the Financing Documents, including (i) all sums of principal, interest, and premium, if any, due or to become due, (ii) all past, present, and future advances under any of the Financing Documents, (iii) any late fees or other charges payable by the Borrower, (iv) all money advanced or expended by the Administration as provided for in any of the Financing Documents, and (v) all Expenses; and

(b) Strictly observe and perform all of the provisions of the Financing Documents, time being of the essence.

“Regulations” means the regulations in Code of Maryland Regulations (COMAR) 14.26.01 through 14.26.01.999, as they may be amended.

“State” means the State of Maryland.

ARTICLE II

TERMS OF THE LOAN AND DISBURSEMENT

Section 2.01. The Loan.

Subject to the terms and conditions of all of the Financing Documents, the Administration agrees to extend the Loan to the Borrower and the Borrower agrees to accept the Loan.

Section 2.02. Repayment and Interest.

All sums advanced under the Loan shall be evidenced by the Note and shall be repaid

with interest in accordance with the provisions of the Note and any attachments thereto, and in accordance with the schedule listed on Exhibit E to this Agreement.

Section 2.03. Disbursement[s].

(a) In General. Subject to the continued compliance by the Borrower with all of the terms of all of the Financing Documents, the continued satisfaction of all conditions precedent to disbursing Loan proceeds under this Agreement, and the continued non-existence of a Default or any event, circumstance, act or omission which with the giving of notice, the passage of time, or both, would constitute a Default, the Administration shall advance to the Borrower the full amount of the Loan pursuant to a completed Request for Disbursement, the form of which is attached hereto as Exhibit B.

(b) Disbursement Schedule. All requests for disbursements shall be made to the Administration at the address specified in Section 5.01 below, or at any other place that the Administration designates. The Borrower shall submit requests for disbursements according to the Draw Schedule that is set forth in Exhibit D.

(c) Disbursements to the Borrower. All disbursements shall be made directly to the Borrower by check issued by the Comptroller of Maryland. The Administration shall only authorize the Comptroller of Maryland to disburse Loan proceeds upon presentation to the Administration by the Borrower of invoices, bills or other satisfactory proof of payments to reimburse the Borrower for payments made for Eligible Project Costs.

(d) Conditions for All Disbursements. The obligation of the Administration to make any disbursements of the Loan is subject to the satisfaction of the following conditions as of the date the disbursement is made:

(i) Receipt of Request for Disbursement. The Administration shall have received a completed Request for Disbursement.

(ii) Representations True. No representation or warranty of the Borrower contained in this Agreement shall be or have become materially incorrect or inaccurate.

(iii) No Defaults. There shall be no breach, default, or event of default (including a Default) under the terms of any of the Financing Documents, and no event, circumstance, act, or omission shall exist which with the giving of notice, the passage of time, or both, would constitute breach, default, or event of default (including a Default) under any of the Financing Documents.

(iv) No Adverse Change. There has been no materially adverse change in the Borrower's financial condition.

(e) Availability of Funds and Reduction of Loan. Disbursements of Loan proceeds are subject to the continuing availability of funds for such purpose, the State's fiscal position, the Administration's financial resources, and compliance with all applicable Laws. The

Administration may, at any time, assess the State's fiscal position and the Administration's financial resources and reduce the amount of undisbursed Loan funds.

(f) Upon each disbursement, the Borrower shall be deemed to have issued each of the representations and warranties contained in Section 3.01 of this Agreement.

(g) In no event shall the Administration be obligated to make any advance under this Agreement if a Default has occurred or if the advance would cause the total principal amount of advances made to exceed the amount of the Loan.

Section 2.04. Conditions Precedent to Disbursement.

Before disbursing any Loan proceeds, the Administration shall receive all of the items set forth on the Closing Checklist, in form and substance acceptable to the Administration.

Section 2.05. Final Disbursement.

When the Borrower submits to the Administration the final Request for Disbursement, the Borrower shall submit to the Administration evidence that the Project is completed.

ARTICLE III
REPRESENTATIONS, WARRANTIES AND COVENANTS
OF THE BORROWER

Section 3.01. Representations and Warranties.

The Borrower represents and warrants as follows:

(a) Organization. The Borrower:

- (i) Is a validly existing municipal corporation under the laws of the State; and
- (ii) Has full legal capability to comply with the Act and the Regulations.

(b) Ordinance/Resolution. As required by the Borrower's Charter, an ordinance has been duly enacted as and a resolution has been duly adopted as an official act of the Borrower's governing body, authorizing the execution and delivery of all of the Financing Documents by the Borrower, and authorizing and directing the person executing the Financing Documents to do so on behalf of the Borrower.

(c) Due Authorization. The Borrower has the full power and authority to enter into this Agreement and consummate the transaction contemplated by the Financing Documents, to borrow the Loan as contemplated hereby, to execute and deliver all of the Financing Documents to which it is a party, and to comply with the terms set forth in all of the Financing Documents, all of which have been duly authorized by all necessary action of the Borrower. No approval of any other person or public authority or regulatory body is required as a condition to the validity of any of the Financing Documents, or, if required, the approval has been obtained.

(d) Validity of Financing Documents. All of the Financing Documents have been properly executed by the Borrower and will:

- (i) Not violate any Laws, or any provision of the Borrower's **Charter**;
- (ii) Not violate any provision, or result in a breach, of any document or agreement binding on the Borrower or affecting its property; or
- (iii) Constitute the valid and legally binding obligations of the Borrower, fully enforceable against the Borrower, in accordance with their terms.

(e) Legal Actions. There is no (1) Claim pending or, to the best of the Borrower's knowledge, threatened in any court or before any governmental agency, and (2) investigation by or before any Governmental Authority, that:

- (i) Questions the validity or enforceability of any of the Financing Documents, or any action taken, or to be taken, under any of them;
- (ii) Is likely to result in any material adverse change in the authority, properties, assets, liabilities, or conditions (financial or otherwise) of the Borrower that would materially impair the Borrower's ability to perform any of its obligations under all of the Financing Documents; or
- (iii) Affects the Project.

(f) Accuracy of Statements. All information contained in any financial statement, report, or other document given by the Borrower or by any other person in connection with the Loan is true and accurate in all respects and the Borrower and each other person has not omitted to state any material fact or any fact necessary to make the information not misleading.

(g) Application. All information in the Application was true and complete in all material respects as of the date of the Application. The Borrower is aware of no event that would require any amendment to the Application in order to make any information in the Application true and complete in all material respects and not misleading in any material respect as of the date of this Agreement, and the Borrower is aware of no event or other fact that should have been, and has not been, reported in the Application as material information.

(h) Financing Document Defaults. There is no event of default or default (including a Default) on the part of the Borrower under any of the Financing Documents, and no event has occurred or is continuing that, with notice, or the passage of time, or both, would constitute an event of default or default (including a Default) under any of the Financing Documents.

(i) Compliance With Laws. The Borrower has complied with all Laws.

(j) Approvals. The Borrower has obtained, or expects to obtain prior to the

commencement of construction of the Project:

(i) All approvals from and reviews by all Governmental Authorities of the Laws applicable to the Project; and

(ii) All necessary permits for the Project.

(k) Zoning. The intended use of the Project will not violate any zoning or other Law, or any restrictive covenant or agreement of the Borrower (now in existence or known by the Borrower to be proposed) applicable to the Project or its use, and all requirements for such use have been satisfied.

(l) Environmental Conditions. To the Borrower's knowledge, the Project, including the land, surface water, and ground water on which the Project is constructed: (i) Is free of any substantial amounts of waste or debris; (ii) Is free of any Hazardous Materials and Hazardous Materials Contamination; (iii) Has never been used as a manufacturing, storage, or dump site for Hazardous Materials; (iv) Is in compliance with all Environmental Requirements; and (v) Contains no Hydric Soils.

Section 3.02. Borrower's Covenants

The Borrower covenants as follows:

(a) Repayment and Performance. The Borrower shall promptly pay and perform all of the Obligations in the manner provided in the Financing Documents.

(b) Use of Loan Proceeds. The Borrower shall use the Loan proceeds for Eligible Project Costs.

(c) Reporting. The Borrower shall furnish the Administration with:

(i) Such reports as the Administration may reasonably require in order to verify the annual energy savings, or lack thereof, resulting from the Project;

(ii) Current information concerning utilities from which the Borrower purchases services, and utility account numbers, and to advise the Administration of changes in these accounts when they occur, and if they may affect the efficient gathering of billing information necessary to verify energy savings, or the lack thereof, resulting from the Project; and

(iii) Any additional information reasonably requested by the Administration.

(d) Monitoring. The Borrower agrees to permit the inspection of Borrower's financial records at least annually to verify payment of utility costs and to compare annual utility costs with budgeted amounts to verify savings, if any, achieved by the Project.

(e) Payment of Contractors. The Borrower will promptly pay all contractors and materialmen the amounts due them.

(f) Maintenance of the Project. The Borrower shall, at its sole cost and expense: (i) Keep, or cause to be kept, the Project in good condition, working order, and repair; (ii) Make, or cause to be made, all replacements to any of the Project so that the Project will always be in good condition; (iii) Operate, or cause to be operated, the Project in the manner in which similar property is operated by persons operating a first-class business of a similar nature.

(g) Insurance. The Borrower shall maintain insurance during the life of the Loan in accordance with the requirements set forth in Exhibit C to this Agreement.

(h) Notification of Claims. The Borrower shall promptly notify the Administration of any (i) material action or prospective claims or litigation, including tax deficiencies, that may be asserted against the Borrower, and (ii) default or event of default under the terms of any bond, debenture, note, or other evidence of indebtedness of the Borrower.

(i) Access. Any duly authorized representative of the Administration shall, at all reasonable times, have access to all portions of the Project.

(j) Books and Records. The Borrower shall keep any books, records, and other documents that may be required under the rules and procedures now or hereafter applicable to loans made by the Administration pursuant to the Act, and as may be reasonably necessary to disclose fully the amount and disposition of the Loan, the total costs incurred to complete the Project, and the source of all funds expended towards the costs of the Project. All books, records and other documents shall be maintained at the offices of the Borrower for inspection, copying, audit and examination at all reasonable times by any duly authorized representative of the Administration. All books, records and other documents shall be maintained until the first to occur of (i) three years after completion of the Project, or (ii) the completion of an audit of the Project by the State.

Press Release. Without the prior consent of the Administration, the Borrower may not issue any press releases in connection with the Loan, the State, or the Administration.

(l) Further Assurances. At any time, upon request by the Administration, the Borrower, at its sole expense, will make, execute, and deliver, or cause to be made, executed, and delivered, any additional documents that may, in the opinion of the Administration, be necessary or desirable to effectuate, complete, perfect, continue, or preserve the Obligations. Upon any failure by the Borrower to do so, the Administration may make and execute any such documents in the name of the Borrower, and at the sole expense of the Borrower, and the Borrower hereby irrevocably appoints the Administration the agent and attorney-in-fact of the Borrower to do so, this appointment being coupled with an interest. The Administration may, at its option, advance the Expenses incurred in making and executing any such documents and the Borrower shall reimburse the Administration for any sums advanced with interest at a rate equal to 12% per annum. Any such Expenses, together with interest, same shall be part of the

Obligations.

(m) Indemnification. To the extent allowed by Maryland law, the Borrower releases the State and the Administration and its agents and employees from, and agrees to protect, indemnify and save each of them harmless against, any Claims and Expenses incurred by, or asserted against, any of them, including but not limited to hazardous material located or placed in the Project and any requirements imposed by any governmental authority with respect to hazardous materials, arising in connection with the Loan or the Project. All money expended by the State or the Administration as a result of such Claims and Expenses, together with interest at a rate equal to 12% per annum from the date of payment, shall constitute an additional indebtedness of the Borrower and shall be immediately due and payable by the Borrower to the State and the Administration. Nothing contained in this Section 3.02(m) or in the Financing Documents shall be construed as a limit on the Obligations. This Section 3.02(m) shall survive termination of this Agreement and repayment of the Loan and Note in full. The Administration expressly reserves the right of any immunity Administration or its employees may possess under State or federal law.

(n) Contractor's Non-Discrimination. The Borrower shall not discriminate against any employee, applicant for employment or in hiring of contractors to carry out any portion of the Project on the basis of race, color, sex, religion, national or ethnic origin or any other characteristics forbidden as a basis for discrimination by applicable laws. The Borrower shall prohibit its contractors from engaging in such discrimination in the hiring of subcontractors to carry out any portion of the Project. Borrower certifies that its Constitution or by-laws contains a non-discrimination clause consistent with the Governor's Code of Fair Practices.

(o) Expenses. All Expenses incurred by the Administration shall become part of the Obligations and shall be repaid by the Borrower on demand, together with interest at a rate equal to 12% per annum from the date of incurrence.

(p) Compliance With Laws. The Borrower will comply with all Laws.

ARTICLE IV
DEFAULT AND REMEDIES

Section 4.01. Defaults.

The occurrence of any one (1) or more of the following events shall constitute a Default under this Agreement:

(a) The Borrower fails to pay the principal amount of the Loan and any applicable interest thereon according to the terms of the Note or any other payment required by any of the Financing Documents, including the Obligations;

(b) The Borrower ceases to use the Project for the purposes listed on Exhibit A to this Agreement, as contemplated in this Agreement, the Application, and the Commitment Letter;

(c) If, for any cause whatsoever, except for strikes, act of God, or other causes beyond the reasonable control of the Borrower, the construction of the Project is at any time

discontinued for a period of thirty (30) days, or if the Project, as determined by the Administration, has not been completed or is not progressing in accordance with the Application and the certified energy savings contained in the Application;

- (d) Any Loan proceeds are used for any purpose other than Eligible Project Costs;
- (e) The Borrower breaches any covenant, representation, warranty, or other provision in this Agreement or any other Financing Document;
- (f) Any statement made in any certificate, report or opinion (including legal opinions), financial statement, or other document furnished in connection with the Loan was incorrect in any material respect when made;
- (g) The Borrower breaches any covenant, representation, warranty, or other provision of this Agreement, which breach is not cured within 30 calendar days from the date the Borrower receives written notice of the breach from the Administration; provided, however that the Borrower shall not receive a 30 calendar day cure period under this subsection for any breach for which there is a specific Default set forth in this Section;
- (h) Any change in any zoning ordinance or any other public restriction is enacted which limits or defines the uses that may be made on any part of the Project, so that the use of the Project would be in violation of the restriction or zoning change and the Project would not be useable for a purpose consistent with the Agreement;
- (i) Any portion of, or interest in, the Project is sold, leased, subleased, transferred, encumbered, or otherwise conveyed, without the prior written consent of the Administration;
- (j) The Borrower fails to comply with any requirement of any Governmental Authority within 30 days after written notice of the requirement is made or within any other time period set by the Governmental Authority; or if any proceeding is commenced or action taken to enforce any remedy for a violation of any requirement of a Governmental Authority or any restrictive covenant affecting any part of the Project;
- (k) A default or event of default occurs under the terms of any bond, debenture, note, or other evidence of indebtedness of the Borrower and remains uncured beyond any applicable grace or cure period;
- (l) Any court of competent jurisdiction makes a final order (i) adjudicating the Borrower a bankrupt, (ii) appointing a trustee or receiver of a substantial part of the property of the Borrower, (iii) approving a petition for, or affecting an arrangement in, bankruptcy, a reorganization pursuant to federal bankruptcy law, or any other judicial modification or alterations of the rights of the Administration or of other creditors of the Borrower, (iv) assuming custody or sequestering any substantial part of the property of the Borrower, or (v) attaching or garnishing any substantial part of the property of the Borrower; or if the Borrower (A) files such petition, or (B) takes or consents to any other actions seeking any such judicial order, or (C) makes an assignment for the benefit of creditors, or (D) fails to pay debts generally as they

become due, or (E) makes an admission in writing of inability to pay debts generally as they become due;

(m) A permanent or preliminary injunction is issued that lasts for more than 90 days, that prohibits the Borrower from using the Project as set forth in the Application and the Commitment Letter;

(n) Without the prior written consent of the Administration, the Borrower (i) sells or transfers all or substantially all of its business assets, (ii) begins any proceeding to dissolve or liquidate, (iii) changes the form of business entity through which it presently conducts its business, or (iv) merges or consolidates;

(o) Without the prior written consent of the Administration, the Borrower is dissolved by operation of law or in any other manner;

(p) The Administration makes a good faith determination that a material adverse change has occurred in the financial condition of the Borrower;

(q) The Administration makes a good faith determination that the prospect of payment of any of the Obligations is impaired for any reason; or

(r) A default or event of default occurs under the terms of any of the other Financing Documents.

Section 4.02. Remedies.

(a) Upon the occurrence of any Default, the Administration may:

(i) Require the immediate repayment of the entire outstanding principal indebtedness, together with all accrued interest, under the Note and any Obligations, without presentment, demand, protest, or notice, all of which the Borrower expressly waives;

(ii) At any time, proceed to protect and enforce all rights and remedies available to the Administration under this Agreement or by Law, by any other proceedings, whether for specific performance of any agreement contained in this Agreement, damages, or other relief;

(iii) Suspend or terminate the Borrower's authority to receive any undisbursed Loan proceeds at any time by notice to the Borrower; and

(iv) Apply as a prepayment of the outstanding principal and interest of the Loan, any undisbursed proceeds of the Loan in the possession of Administration.

(b) All remedies provided for in this Agreement or by Law are cumulative and are in addition to any other rights and remedies available to the Administration under any Law. The exercise of any right or remedy by the Administration shall not constitute a cure or waiver of any Default by the Borrower, nor invalidate any act done pursuant to any notice of Default, nor

prejudice the Administration in the exercise of those rights.

(c) The failure of the Administration to insist upon performance of any term of this Agreement shall not constitute a waiver of any term of this Agreement. No act of the Administration shall be construed as an election to proceed under any one provision in this Agreement to the exclusion of any other provision.

(d) If the Administration suspends or terminates this Agreement, the rights and remedies available to the Administration shall survive the suspension or termination.

Section 4.03. Setoff.

The Administration may set off against and apply any funds of the Borrower on deposit with, or under the control of, the State to the payment of the Obligations, without notice and without resort to any judicial proceeding.

ARTICLE V
MISCELLANEOUS

Section 5.01. Notices.

(a) All communications between the parties made pursuant to this Agreement shall be in writing.

(b) Any communication shall (a) when mailed, be effective three business days after it is deposited in the mails, (b) when mailed for next day delivery by a reputable overnight courier service, be effective one business day after mailing, and (c) when sent by fax, be effective when it is faxed and receipt of the communication is confirmed. Communications shall be delivered to the office of the addressee as follows:

(i) Communications to the Administration shall be mailed to:

Maryland Energy Administration
60 West Street, Suite 300
Annapolis, Maryland 21401
Attention: Lawton Program Manager
FAX Number: (410) 333-6931

(ii) Communications to the Borrower shall be mailed to:

City of Salisbury
125 North Division Street
Salisbury, Maryland 21801
Attention: Public Works Department
FAX Number: (410) 548-3107

(c) The Borrower and the Administration may change their notice addresses by sending written notice to the other party.

Section 5.02. Assignment or Transfer.

No benefit or burden imposed on the Borrower under this Agreement may be assigned or transferred without the prior written consent of the Administration.

Section 5.03. Successors Bound.

This Agreement shall inure to the benefit of, and shall be binding upon, each of the parties and their successors and permitted assigns.

Section 5.04. Severability.

The invalidity of any part of this Agreement shall not affect the validity of the remaining provisions of this Agreement.

Section 5.05. Entire Agreement.

This Agreement constitutes the entire agreement between the Borrower and the Administration and supersedes all prior oral and written agreements, representations, and negotiations between the parties concerning the Loan and the Obligations.

Section 5.06. Amendment of Agreement.

This Agreement may be amended only in writing executed by the Administration and the Borrower.

Section 5.07. Headings.

The headings used in this Agreement are for convenience only and do not constitute a part of this Agreement.

Section 5.08. Disclaimer of Relationships.

The Borrower acknowledges that the obligation of the Administration is limited to making the Loan on the terms set forth in this Agreement. Nothing in this Agreement, and no act of the Administration or the Borrower, shall be deemed to create any relationship of third-party beneficiary, principal and agent, limited or general partnership, joint venture, or any other relationship between the Borrower and the Administration. In addition, by inspecting any part of the Facility or by accepting or approving any action of the Borrower under any of the Financing Documents, the Administration shall not be considered to warrant the condition, legality, or sufficiency of any part of the Facility or any action taken or not taken by the Borrower.

Section 5.09. Governing Law.

This Agreement and all of the other Financing Documents shall be governed by the laws of the State of Maryland.

Section 5.10. Term of Agreement.

Except as otherwise provided in this Agreement, unless sooner terminated by the mutual consent of the Borrower and the Administration, this Agreement shall remain in full force and effect until the Loan and the Obligations, together with interest and all other sums due and owing in connection with this Agreement, the Obligations or the Loan, have been paid in full to the satisfaction of the Administration.

Section 5.11. Illegality.

If performance of any obligation under any of the Financing Documents would require the performing party to violate the Law, then the performance shall be reduced to the level permitted by Law, and if (1) any provision of this Agreement, other than provision requiring the Borrower to pay interest, principal, principal and interest, or any other of the Obligations, operates, or would operate, to invalidate any part of this Agreement, then such provision only shall be void as though not set forth in this Agreement, and the remainder of this Agreement shall remain in full force and effect, (2) any provision of this Agreement requires the Borrower to pay interest, principal, principal and interest, or any other of the Obligations is held to be invalid, then at the option of the Administration, the entire unpaid sum under the Loan, with all unpaid interest accrued thereon and all other unpaid Obligations shall become due and payable.

Section 5.12. CONFESSION OF JUDGMENT.

UPON A DEFAULT, THE BORROWER AUTHORIZES THE CLERK OR ANY ATTORNEY OF ANY COURT OF RECORD TO APPEAR FOR IT AND ENTER JUDGMENT BY CONFESSION WITHOUT PRIOR NOTICE OR OPPORTUNITY FOR PRIOR HEARING FOR THE OBLIGATIONS THEN OUTSTANDING, TOGETHER WITH INTEREST, COURT COSTS AND ATTORNEYS' FEES EQUAL TO 15% OF THE SUM OF THE OBLIGATIONS THEN OUTSTANDING. THE BORROWER WAIVES AND RELEASES, TO THE EXTENT PERMITTED BY LAW, ALL ERRORS AND ALL RIGHTS OF EXEMPTION, APPEAL, STAY OF EXECUTION, INQUISITION, AND EXTENSION UPON ANY LEVY ON REAL ESTATE OR PERSONAL PROPERTY TO WHICH THE BORROWER MAY OTHERWISE BE ENTITLED UNDER ANY LAW. THE AUTHORITY TO APPEAR FOR AND ENTER JUDGMENT AGAINST THE BORROWER MAY BE EXERCISED ON ONE OR MORE OCCASIONS, AND SHALL NOT BE EXTINGUISHED BY ANY JUDGMENT ENTERED PURSUANT THERETO. THIS AUTHORITY MAY BE EXERCISED IN THE SAME OR DIFFERENT JURISDICTIONS, AS OFTEN AS THE LENDER DETERMINES TO BE NECESSARY OR DESIRABLE.

Section 5.13. Expenses.

The Borrower shall pay all Expenses in connection with the execution and delivery of

any of the Financing Documents.

Section 5.14. Time of Essence.

Time is of the essence in this Agreement.

Section 5.15. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which, when taken together, shall constitute one document.

IN WITNESS WHEREOF, the Borrower and the Administration have caused this Agreement to be executed and delivered as of the date first above written.

WITNESS:

MARYLAND ENERGY ADMINISTRATION

Name: _____

By: _____
Name: Malcolm D. Woolf
Title: Director

(SEAL)

ATTEST:

CITY OF SALISBURY

Name: Brenda J. Cole
Title: City Clerk

By: _____ (SEAL)
Name: James Ireton, Jr.
Title: Mayor

STATE OF MARYLAND, CITY/COUNTY OF _____, TO WIT:

I HEREBY CERTIFY that on this ____ day of _____, 201__, before me, a Notary Public in the State of Maryland, personally appeared James Ireton, Jr., who acknowledged himself to be the Mayor of City of Salisbury, known or satisfactorily proven to me to be the person whose name is subscribed to this document, and acknowledged that he executed it on behalf of the _____, as its duly authorized _____.

AS WITNESS my hand and Notarial Seal.

Notary Public

My Commission expires: _____

EXHIBIT A

DESCRIPTION OF THE PROJECT AND ELIGIBLE PROJECT COSTS

The City of Salisbury has proposed the following project that is approved for funding under this loan agreement.

- Replacement of 761 conventional traffic-signal light bulbs with light-emitting diode (LED) technology bulbs and fixtures.
 - This measure is described in detail in Attachments A and B to the January 28, 2010, Application submitted by the Borrower and approved by the Administration.
 - This measure will save an estimated \$25,973.65 per year in electricity costs.
 - This measure will save an estimated \$34,736.09 per year in maintenance and conventional bulb replacement costs.

Eligible Project Costs are limited to the purchase and installation of LED bulbs according to Attachments A and B to the January 28, 2010, Application.

The City of Salisbury will contribute in-kind services worth \$36,048.30 to the completion of this project.

DRAFT

EXHIBIT B

REQUEST FOR DISBURSEMENT

1. Project Name: _____
2. Borrower: _____
3. Request Number (Number Consecutively): _____
4. Description of Activities and Costs

| Activity | Actual Cost (& Contract # if applicable) | Amount Requested from Administration in this Request | Cumulative Amount Requested from Administration to date |
|---------------|--|--|--|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| Total: | | | |

Instructions:

- 1) Most figures must be supported by adequate documentation (invoices, bills, vouchers, etc.).
- 2) The Administration will not honor requests for disbursement which exceed the lesser of the amount the Administration is to pay for a particular activity in the project budget previously accepted by the Administration or the actual cost of the work performed.
- 3) In addition to the completed Description of Activities and Costs, the Borrower must write a letter (with all invoices as attachments) to the Administration *with each request* containing the following information:
 - o Loan number (i.e., JELLP #...)
 - o Amount of disbursement requested
 - o Name of the responsible project manager and primary contact
 - o Any update to the mailing address
 - o Federal Tax Identification Number for the borrower
 - o Brief narrative description of the work completed with the funding being requested for disbursement

- Itemization of each individual invoice, including the business name of the contractor or vendor, number of pages, payment due, and amount of disbursement request being used toward the payment

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EXHIBIT C

INSURANCE REQUIREMENTS

1. Comprehensive general liability self-insurance for both Borrower and Contractor(s) in the form and for amounts acceptable to Administration; Borrower's policy to name Administration as an additional insured.
2. Fire and hazard insurance in the form and for the amounts acceptable to Administration, naming Administration as an additional insured and loss payee.
3. Worker's compensation insurance, broad form, all states coverage, covering all persons engaged in work on the Project, and upon completion of the Project, covering employees of the Borrower.
4. Builder's risk insurance in the form and for the amounts acceptable to the Administration, naming the Administration as an additional insured and loss payee.

Sponsor shall provide the Administration with thirty (30) days written notice prior to cancellation or non-renewal of the insurance.

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EXHIBIT D

DRAW SCHEDULE FOR PROJECT

(to be completed by Borrower and approved by Administration prior to Closing)

| | | |
|-------------------|-----------------|--------------|
| July 1, 2010 | 50% Completion | \$129,370.00 |
| September 6, 2010 | 100% Completion | \$129,370.00 |
| | | \$258,740.00 |

EXHIBIT E

AMORITIZATION SCHEDULE

| | | | | |
|------------------------|----------------|-----------------|--------------------|----------------|
| Loan | \$ 258,740.00 | | | |
| Rate | 0% | | | |
| Periods | 18 | | | |
| Payment | (\$14,374.44) | | | |
| Period | Payment | Interest | Principal | Balance |
| 1 | (\$14,374.44) | 0.00 | (\$14,374.44) | \$ 244,365.56 |
| 2 | (14,374.44) | 0.00 | (14,374.44) | 229,991.11 |
| 3 | (14,374.44) | 0.00 | (14,374.44) | 215,616.67 |
| 4 | (14,374.44) | 0.00 | (14,374.44) | 201,242.22 |
| 5 | (14,374.44) | 0.00 | (14,374.44) | 186,867.78 |
| 6 | (14,374.44) | 0.00 | (14,374.44) | 172,493.33 |
| 7 | (14,374.44) | 0.00 | (14,374.44) | 158,118.89 |
| 8 | (14,374.44) | 0.00 | (14,374.44) | 143,744.44 |
| 9 | (14,374.44) | 0.00 | (14,374.44) | 129,370.00 |
| 10 | (14,374.44) | 0.00 | (14,374.44) | 114,995.56 |
| 11 | (14,374.44) | 0.00 | (14,374.44) | 100,621.11 |
| 12 | (14,374.44) | 0.00 | (14,374.44) | 86,246.67 |
| 13 | (14,374.44) | 0.00 | (14,374.44) | 71,872.22 |
| 14 | (14,374.44) | 0.00 | (14,374.44) | 57,497.78 |
| 15 | (14,374.44) | 0.00 | (14,374.44) | 43,123.33 |
| 16 | (14,374.44) | 0.00 | (14,374.44) | 28,748.89 |
| 17 | (14,374.44) | 0.00 | (14,374.44) | 14,374.44 |
| 18 | (14,374.44) | 0.00 | (14,374.44) | 0.00 |
| | (\$258,740.00) | \$ - | (\$258,740.00) | \$0.00 |
| | | | | |
| Annual Savings | | | \$29,478.83 | |
| Annual Payments | | | \$28,748.89 | |