

Ordinance No. 2277

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SALISBURY ENTITLED AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE NO. 2167, PASSED BY THE COUNCIL ON AUGUST 22, 2011, APPROVED BY THE MAYOR ON AUGUST 23, 2011 AND EFFECTIVE ON AUGUST 23, 2011, IN ORDER TO (1) MODIFY THE DESCRIPTION OF THE WATER QUALITY INLET PROJECT PROVIDED FOR IN ORDINANCE NO. 2167 AND (2) REDUCE THE AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS AND GENERAL OBLIGATION BOND ANTICIPATION NOTES AUTHORIZED TO BE ISSUED PURSUANT TO ORDINANCE NO. 2167 FROM ONE MILLION DOLLARS (\$1,000,000.00) TO FIVE HUNDRED THIRTY-ONE THOUSAND DOLLARS (\$531,000.00) EACH; 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 BONDS AND THE BOND ANTICIPATION NOTES AUTHORIZED TO BE ISSUED PURSUANT TO ORDINANCE NO. 2167.

RECITALS

WHEREAS, City of Salisbury, a municipal corporation of the State of Maryland (the "City"), is authorized and empowered by Sections 19-301 through 19-309, inclusive, of the Local Government Article of the Annotated Code of Maryland (previously codified as 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, 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. 2167, adopted by the Council of the City (the "Council") on August 22, 2011, approved by the Mayor of the City (the "Mayor") on August 23, 2011 and effective on August 23, 2011 ("Ordinance No. 2167"), the City authorized general obligation bonds to be issued in one or more series from time to time in an aggregate principal amount not to exceed One Million Dollars (\$1,000,000.00) (the "Authorized Bonds") for the public purpose of financing, reimbursing or refinancing costs incurred in connection with the acquisition, construction, installation, improvement and equipping of approximately twenty-four (24) water quality inlets and related activities, improvements and appurtenances along Waverly Drive, South Boulevard, Hanover Street and Lloyd Street or otherwise in the general area of such streets, including, without limitation, related traffic control, milling and repaving, pavement marking, and curb, gutter and sidewalk restoration, together with the acquisition of necessary property rights and equipment, related site improvements and utilities, related architectural, planning, design, engineering, surveying, permitting, bidding, document development, construction administration and other costs, related financial and legal expenses and costs of issuance, all to the extent permitted by the Maryland Water Quality Financing Administration (collectively, the "Authorized Project"); and

Underlining : Indicates material added by amendment after introduction
~~Strike-through~~ : Indicates material deleted by amendment after introduction

WHEREAS, Ordinance No. 2167 provides that the Authorized Bonds shall be sold to the Maryland Water Quality Financing Administration (the "Administration"); and

WHEREAS, Ordinance No. 2167 further authorizes the City to issue and sell its general obligation bond anticipation notes in one or more series from time to time in an aggregate principal amount not to exceed \$1,000,000.00 (the "Authorized BANs") in order to finance or reimburse Authorized Project costs on an interim basis; and

WHEREAS, the scope of the Authorized Project has been modified since the passage of Ordinance No. 2167 and (i) the City no longer expects to provide for as many as twenty-four (24) water quality inlets as part of the Authorized Project and (ii) the City anticipates having to borrow substantially less than One Million Dollars (\$1,000,000.00) from the Administration (or through any interim financing) for project purposes; and

WHEREAS, accordingly, the City would like to modify the description of the Authorized Project and reduce the authorized maximum aggregate principal amount of the Authorized Bonds and the Authorized BANs provided for in Ordinance No. 2167.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that the Recitals to this Ordinance are incorporated by reference herein and deemed a substantive part of this Ordinance. Capitalized terms used in the Sections of this Ordinance that are not defined therein shall have the meanings given to such terms in the Recitals.

SECTION 2. BE IT FURTHER ORDAINED that (a) pursuant to the authority of the Enabling Act, the Charter and Ordinance No. 2167, Section 2 of Ordinance No. 2167 is hereby deleted in its entirety and inserted in place thereof shall be the following:

"SECTION 2. BE IT FURTHER ORDAINED that pursuant to the authority of the MWQFA Act, the Enabling Act and the Charter, the City hereby determines to borrow money and incur indebtedness for the public purpose of financing, reimbursing or refinancing costs incurred in connection with the acquisition, construction, installation, improvement and equipping of water quality inlets and related activities, improvements and appurtenances along Waverly Drive, South Boulevard, Hanover Street and Lloyd Street or otherwise in the general area of such streets, including, without limitation, related traffic control, milling and repaving, pavement marking, and curb, gutter and sidewalk restoration, together with the acquisition of necessary property rights and equipment, related site improvements and utilities, related architectural, planning, design, engineering, surveying, permitting, bidding, document development, construction administration and other costs, related financial and legal expenses and costs of issuance, all to the extent permitted by the Administration (collectively, the "Project"). The total cost of the Project not otherwise payable from other sources is not expected to exceed Five

Underlining : Indicates material added by amendment after introduction
~~Strike-through~~ : Indicates material deleted by amendment after introduction

Hundred Thirty-one Thousand Dollars (\$531,000.00). In the event the City issues any BANs (as defined in Section 11 hereof), proceeds of any Bonds (as defined in Section 3 hereof) may also be applied to prepay or pay principal of, premium and/or interest on such BANs, and any such expenditure shall be considered an expenditure for Project purposes.”

(b) By undertaking the amendments to Section 2 of Ordinance No. 2167 provided for in subsection (a) of this Section 2, the City is revising the description of the Project provided for in Ordinance No. 2167 and reducing the stated maximum principal amount to be borrowed for such purposes.

(c) From and after the effective date of this Ordinance, all references to the Project in Ordinance No. 2167 shall be deemed to be references to the Project as defined in Section 2(a) above.

SECTION 3. BE IT FURTHER ORDAINED that (a) pursuant to the authority of the Enabling Act, the Charter and Ordinance No. 2167, Section 3 of Ordinance No. 2167 is hereby deleted in its entirety and inserted in place thereof shall be the following:

“SECTION 3. BE IT FURTHER ORDAINED that to evidence the borrowing and indebtedness authorized in Section 2 of this Ordinance, the City, acting pursuant to the authority of the MWQFA Act, the Enabling Act and the Charter, hereby determines to issue and sell from time to time, upon its full faith and credit, one or more series of its general obligation bonds in an aggregate principal amount not to exceed Five Hundred Thirty-one Thousand Dollars (\$531,000.00) (individually, a “Bond” and, collectively, the “Bonds”). Each Bond shall be designated “City of Salisbury Water Quality Bond” and by series or by such other designation or designations as the Administration may require and as the Council shall determine in the Resolution (as defined in Section 8 hereof). Each such series may consist of one or more bonds and any Bond may be issued in installment form and/or draw-down form.”

(b) By undertaking the amendments to Section 3 of Ordinance No. 2167 provided for in subsection (a) of this Section 3, the City is reducing the aggregate principal amount of the Bonds authorized to be issued pursuant to Ordinance No. 2167 to an amount not to exceed Five Hundred Thirty-one Thousand Dollars (\$531,000.00).

(c) From and after the effective date of this Ordinance, the provisions of this Section 3 shall supersede the provisions of Section 3 of Ordinance No. 2167 with respect to the aggregate principal amount of the Bonds authorized to be issued pursuant to Ordinance No. 2167.

Underlining : Indicates material added by amendment after introduction
~~Strike-through~~ : Indicates material deleted by amendment after introduction

SECTION 4. BE IT FURTHER ORDAINED that (a) pursuant to the authority of the Enabling Act, the Charter and Ordinance No. 2167, Section 11(a) of Ordinance No. 2167 is hereby deleted in its entirety and inserted in place thereof shall be the following:

“SECTION 11. BE IT FURTHER ORDAINED that (a) pursuant to the authority of the Bond Anticipation Note Enabling Act and the Charter, the City may issue and sell from time to time, upon its full faith and credit, one or more series of its general obligation bond anticipation notes in an aggregate principal amount not to exceed Five Hundred Thirty-one Thousand Dollars (\$531,000.00) (collectively, the “BANs”) prior to and in anticipation of the sale of any series of the Bonds in order to finance or reimburse costs of the Project on an interim basis, including paying capitalized interest on such series of the BANs within the limitations of the Bond Anticipation Note Enabling Act. Any such series of the BANs may consist of one or more notes and any note may be issued in installment and/or draw-down form. Prior to the issuance, sale and delivery of any series of the BANs, the Council shall adopt a resolution or resolutions pursuant to the authority of the Bond Anticipation Note Enabling Act, the Charter and this Ordinance authorizing such series of the BANs and specifying, prescribing, determining, providing for the approval of or approving such matters, details, forms, documents or procedures as may be authorized or required by applicable law. Unless the Council determines otherwise in a resolution or resolutions providing for any series of the BANs, such series of the BANs shall be sold by private negotiation due to the ability to time the market, negotiate terms and thereby achieve a beneficial rate or rates and other beneficial terms by undertaking a private (negotiated) sale.”

(b) By undertaking the amendments to Section 11(a) of Ordinance No. 2167 provided for in subsection (a) of this Section 4, the City is reducing the aggregate principal amount of the BANs authorized to be issued pursuant to Ordinance No. 2167 to an amount not to exceed Five Hundred Thirty-one Thousand Dollars (\$531,000.00).

(c) From and after the effective date of this Ordinance, the provisions of this Section 4 shall supersede the provisions of Section 11(a) of Ordinance No. 2167 with respect to the aggregate principal amount of the BANs authorized to be issued pursuant to Ordinance No. 2167.

SECTION 5. BE IT FURTHER ORDAINED that from and after the effective date of this Ordinance, Ordinance No. 2167 shall be deemed amended and supplemented as provided herein and all other terms and provisions of Ordinance No. 2167 shall remain in full force and effect.

SECTION 6. 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.

Underlining : Indicates material added by amendment after introduction
~~Strike-through~~ : Indicates material deleted by amendment after introduction

SECTION 7. 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. Pursuant to Charter Section SC2-16, this Ordinance shall not be subject to petition to referendum.

THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the 10th day of February, 2014, and thereafter, a statement of the substance of this Ordinance having been published as required by law, was finally passed by the Council ✓ [as introduced] _____ [as amended] [CHECK APPLICABLE LINE] on the 24th day of February, 2014.

ATTEST:



Kimberly R. Nichols, City Clerk



Jacob R. Day, City Council President

APPROVED BY ME THIS 26th DAY OF February, 2014:



James Ireton, Jr., Mayor

#160124;58111.023

Underlining : Indicates material added by amendment after introduction
~~Strike-through~~ : Indicates material deleted by amendment after introduction

City of Salisbury



MARYLAND

Salisbury



2010

125 NORTH DIVISION STREET
SALISBURY, MARYLAND 21801

Tel: 410-548-3170

Fax: 410-548-3107

JAMES IRETON, JR.
MAYOR

M. THOMAS STEVENSON, JR.
INTERIM CITY ADMINISTRATOR

TERENCE ARRINGTON
ASSISTANT CITY ADMINISTRATOR

MICHAEL S. MOULDS, P.E.
DIRECTOR OF PUBLIC WORKS

TO: Tom Stevenson, Interim City Administrator
FROM: Michael Moulds, Director of Public Works
Paul Mauser, Project Engineer
DATE: January 23, 2014
SUBJECT: Amendment of Ordinance No. 2167
Waverly Drive Water Quality Inlet Project (RFP 04-12)

Please process the amendment of Ordinance No. 2167. Ordinance No. 2167 was executed on August 23, 2011 and provides the necessary documentation for the City of Salisbury to accept funding from the Maryland Department of the Environment (MDE) through their Maryland Water Quality Revolving Loan Fund (MWQRLF) for the installation of 24 bioretention units along Waverly Drive. The funding will be inclusive of construction costs only and does not include reimbursement for engineering design.

The engineering design for this project officially began on September 26, 2012 when Salisbury Public Works (SPW) issued a Notice to Proceed (NTP) to Davis, Bowen and Friedel (DBF) for engineering services. As the engineering work began more than a year after the signing of Ordinance No. 2167, the project was subject to new regulations from MDE. The resulting new regulations restricted the project to being inclusive of installing only 11 larger, more expensive bioretention units, as opposed to the original 24 units.

The original funding amount for this project was approved up to \$967,680.00 based on the attached July 13, 2012 letter to the City from MDE. The \$967,680.00 figure was set as the project funding goal and the design was intended to maximize this funding without exceeding it. The attached Engineer's Estimate from DBF, dated June 10, 2013 (provided with the 100% construction submittal) estimated the construction costs as \$855,856.58. Construction bids were opened on September 20, 2013 and ranged from a high bid of \$896,165.90 to a low bid of \$494,085.60 (the low bidder, David A. Bramble, Inc., has been awarded the project pending Maryland Board of Public Works approval on March 5, 2014). As the \$494,085.60 bid was nearly half of the funding eligible level of \$967,680, SPW exhausted efforts with MDE to add more bioretention units to the project to maximize the available funding. In the attached November 8, 2013 email from Jag Khuman, Director of Maryland Water Quality Financing Administration (MWQFA), the SPW request to utilize the remaining funds was officially denied.

Lindsey A. Rader from Funk & Bolton, P.A. has prepared the attached ordinance amendment to modify the wording to reflect the changes described above. Upon approval of this ordinance amendment and approval of the project by the Maryland Board of Public Works, the City will be approved to receive an 87.5% Principal Forgiveness / 12.5% Base Loan in the amount of \$531,000. The \$531,000 includes \$12,000 for Funk & Bolton legal expenses, \$494,000 construction cost for David A. Bramble Inc., and \$25,000 in Contingency.

Paul B. Mauser, E.I.
Project Engineer

Michael S. Moulds, P.E.
Public Works Director



MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230

410-537-3000 • 1-800-633-6101 • www.mde.state.md.us

Martin O'Malley
Governor

Robert M. Summers, Ph.D.
Secretary

Anthony G. Brown
Lieutenant Governor

July 13, 2012

Ms. Teresa Gardner, Director
Department of Public Works
City of Salisbury
125 N. Division Street
Salisbury MD 21801-4940

RE: Waverly Drive Water Quality Storm Drain Inlets
2010 Water Quality State Revolving Fund (WQSRF) Intended Use Plan (IUP)
WQSRF Loan Amount: \$319,680 (eligible for 87.5% Principal Forgiveness NPS Loan)
Green Loan Amount: \$648,000 (eligible for 87.5% Principal Forgiveness Green Loan)

Dear Ms. Gardner:

This letter modifies the April 5, 2012 funding commitment letter. The funding allocations remain the same; however, there is a modification in the calculation of additional subsidy that may be given on the WQSRF Loan Amount of \$319,680.

Because this project is classified as a Non-point Source (NPS) project, our guidelines allow for up to 87.5% of the loan to be given in the form of a Principal Forgiveness Loan. The April 5th letter allowed for only up to 25% in Principal Forgiveness which was based solely upon Salisbury's classification as a Large Disadvantaged Community.

Please continue to work with the Department's Project Engineer for this project, Mr. Michael Kanowitz, to provide the plans and specifications as well as the supporting documentation necessary for him to approve the green components of the project.

As stated in the April 5th letter, the funding commitment is contingent upon the final construction bid documents being submitted to the Department by the December 2012 benchmark; ideally under construction by 2012.

We look forward to working with the City to move this project into loan execution. Please do not hesitate to contact me regarding the State Revolving Fund allocations and/or the loan origination process. I can be reached at 410-537-3243 or via email at terest@mde.state.md.us.

Sincerely,

Teresa Ernest
State Revolving Fund Coordinator
State Revolving Fund Division
Water Quality Financing Administration

Cc: Mike Kanowitz
Jag Khuman
Gerri Moore
Dallas Baker
Walid Saffouri

Engineer's Estimate
Waverly Drive Water Quality Inlet Project
City of Salisbury
Wicomico County, Maryland
DBF #094A040/City Contract No. 115-13
June 10, 2013

ITEM NO.	DESCRIPTION OF WORK	SIZE OR DEPTH	UNIT	EST QTY	UNIT PRICE	TOTAL PRICE
1	Mobilization, Bonds, and Insurance (Max. 3% of Total Bid)	--	LS	--	--	\$ 24,927.86
2	Provide Traffic Control Measures	--	LS	--	--	\$ 70,000.00
3	Provide Field In-Place Density Tests	All Depths	EA	25	\$ 150.00	\$ 3,750.00
4	Furnish and Install Inlet Protection	All Types	EA	11	\$ 275.00	\$ 3,025.00
5a	Furnish and Install Precast Bioretention Unit	15x4	EA	2	\$ 36,000.00	\$ 72,000.00
5b		17x6	EA	2	\$ 55,000.00	\$ 110,000.00
5c		18x6	EA	2	\$ 57,000.00	\$ 114,000.00
5d		20x8	EA	4	\$ 75,000.00	\$ 300,000.00
6a	Furnish and Install SDR 35 PVC Outlet Pipe	4"	LF	20	\$ 65.00	\$ 1,300.00
6b		6"	LF	110	\$ 80.00	\$ 8,800.00
7	Curb and Gutter Restoration as Noted on Plans	Match Existing	LF	352	\$ 45.00	\$ 15,840.00
8	Sidewalk Restoration as Noted on Plans	Match Existing, min. 4" thick	SF	1,939	\$ 20.00	\$ 38,775.20
9	Asphalt Drive Restoration as Noted on Plans	Match Existing	SY	4.1	\$ 125.00	\$ 518.52
10	Furnish and Install Watermain and Fittings	12"	LF	125	\$ 200.00	\$ 25,020.00
CONTINGENCIES						
11	Miscellaneous Excavation and Backfill for Test Pitting	--	CY	35	\$ 30.00	\$ 1,050.00
12	Excavation Below Subgrade and Gravel Refill	--	CY	60	\$ 40.00	\$ 2,400.00
13	Furnish & Place Select Backfill	--	CY	60	\$ 20.00	\$ 1,200.00
14	Furnish & Place 4,000 PSI Concrete	--	CY	25	\$ 150.00	\$ 3,750.00
TOTAL BASE BID (ITEMS 1-14)						\$ 796,356.58
ADD ALTERNATES						
15A	Furnish and Install Precast Bioretention Unit #12.1	18x6	EA	1	\$ 57,000.00	\$ 57,000.00
16A	Provide Tree Removal as Necessary for the Installation of Precast Bioretention Unit and Appurtenances	--	LS	--	--	\$ 2,500.00
TOTAL ADD ALTERNATES (ITEMS 15A-16A)						\$ 59,500.00
TOTAL CONSTRUCTION COSTS (ITEMS 1-16A)						\$ 855,856.58

Paul Mauser

From: Jag Khuman -MDE- [<mailto:jag.khuman@maryland.gov>]

Sent: Friday, November 08, 2013 8:17 AM

To: Paul Mauser

Cc: bernetta.richards@maryland.gov; Teresa T. Ernest (teresa.ernest@maryland.gov); Sunita Boyle -MDE-; Hardik Ramaiya (hardik.ramaiya@maryland.gov); Michael Moulds; Amanda Pollack; Richard Baldwin; Tom Tengman

Subject: Re: Waverly Drive - MDE Bid Package

Paul: Thank you for the procurement package that MDE will review shortly.

Regarding your inquiry on adding additional work. The WQSRF loan/loan forgiveness financing is limited to the project costs based on low bid, for which MWQFA is offering 87.5% of the total as loan forgiveness (grant). Any additional work would be treated as a new project and you are welcome to apply for future funding in Dec/Jan 2014.

PS - We have held on to the loan/LF funding for this project in spite of delays, and we need to expend the funds quickly.

Jag

On Thu, Nov 7, 2013 at 11:52 AM, Paul Mauser <pmauser@citylivingsalisbury.com> wrote:

Mr. Khuman,

Please find attached to this email the MDE Construction Bid Approval Package for the Waverly Drive Water Quality Inlet Project in Salisbury, MD. It has been a pleasure to work with Teresa Ernest, Sunita Boyle and Hardik Ramaiya throughout the funding and design aspects of this project and I have copied them on this email. Teresa recommended that I also copy Bernetta Richards on this email. Please note that a hard copy of the MDE Construction Bid Approval Package is being mailed to your attention. Please contact me directly with any questions that you may have.

Salisbury Public Works would like to inquire about the remaining funds that were allocated to this project. The total funds for this project are based on the DBF Engineer's Construction Cost estimate of \$855,614.74, dated May 6, 2013. Mr. Rajiv Chawla confirmed that the \$855,614.74 is 100% eligible for GPR funds, in a July 29, 2013 letter to Salisbury Public Works. With good fortune, the low bidder for this project (Bramble) came in at nearly half of the engineer's estimate with a bid of \$494,085.60, leaving a total of \$361,529.14 remaining.

It is the desire of Salisbury Public Works to utilize the remaining funds to construct additional bioretention units along Waverly Drive, entailing additional design and construction costs. SPW proposes to move forward with approval of the Construction Bid Approval Package and then utilize Change Orders during the construction of the project to harvest the remaining \$361,529.14 in GPR funding. Essentially, Salisbury Public Works is

viewing the remaining funding as a great opportunity to install more bioretention units in the Waverly Drive area that will further achieve the goal of protecting and restoring the quality of our water resources. Please advise on your thoughts.

Thanks,

Paul B Mauser, E.I.

Project Engineer

City of Salisbury

Department of Public Works

125 N Division Street, Suite 202

Salisbury, MD 21801

(410) 548-3170

PMauser@ci.salisbury.md.us

www.ci.salisbury.md.us/publicworks/index.htm