

Ordinance No. 2322

AN ORDINANCE OF THE CITY OF SALISBURY, MARYLAND TO AUTHORIZE AND EMPOWER CITY OF SALISBURY (THE "CITY") TO ISSUE AND SELL FROM TIME TO TIME, UPON ITS FULL FAITH AND CREDIT, ONE OR MORE SERIES OF GENERAL OBLIGATION BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED THIRTY-EIGHT MILLION DOLLARS (\$38,000,000.00), EACH SERIES OF BONDS 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 ENHANCED NUTRIENT REMOVAL (ENR) AND BIOLOGICAL NUTRIENT REMOVAL (BNR) UPGRADES AND IMPROVEMENTS TO OR BENEFITING THE EXISTING WASTEWATER TREATMENT PLANT AND SYSTEM; DETERMINING THAT ANY SUCH SERIES OF BONDS BE SOLD TO THE MARYLAND WATER QUALITY FINANCING ADMINISTRATION (THE "ADMINISTRATION") BY PRIVATE SALE, WITHOUT PUBLIC BIDDING; AUTHORIZING THE APPROVAL BY RESOLUTION OF ONE OR MORE LOAN AGREEMENTS WITH THE ADMINISTRATION; ACKNOWLEDGING THAT ANY LOAN AGREEMENT MAY PROVIDE THAT PAYMENT OF THE RELATED SERIES OF BONDS SHALL BE SUBJECT TO ACCELERATION UPON AN EVENT OF DEFAULT; PROVIDING FOR THE PLEDGING OF ANY MONEYS THAT THE CITY IS ENTITLED TO RECEIVE FROM THE STATE OF MARYLAND, INCLUDING THE CITY'S SHARE OF THE STATE INCOME TAX, TO SECURE ITS OBLIGATIONS UNDER ANY LOAN AGREEMENT; AUTHORIZING THE COUNCIL OF THE CITY (THE "COUNCIL") BY RESOLUTION TO DETERMINE AND PROVIDE FOR VARIOUS MATTERS RELATING TO THE AUTHORIZATION, SALE, SECURITY, ISSUANCE, DELIVERY, PAYMENT AND PREPAYMENT OF AND FOR ANY SERIES OF BONDS CONTEMPLATED HEREBY; AUTHORIZING AND DIRECTING THE PAYMENT OF ANY FEES OR COSTS PROVIDED FOR IN ANY LOAN AGREEMENT THAT ARE NOT PAYABLE FROM BOND PROCEEDS AND PROVIDING THAT THE CITY'S OBLIGATION TO PAY SUCH AMOUNTS SHALL BE ABSOLUTE AND UNCONDITIONAL AS PROVIDED IN SUCH LOAN AGREEMENT; PROVIDING THAT THE CITY SHALL USE AND APPLY PROCEEDS OF ANY SUCH SERIES OF BONDS ONLY AS PERMITTED BY THE APPLICABLE LOAN AGREEMENT, THE CLEAN WATER ACT (AS DEFINED HEREIN) AND THE MWQFA ACT (AS DEFINED HEREIN); AUTHORIZING THE ISSUANCE AND SALE BY THE CITY FROM TIME TO TIME, UPON THE CITY'S FULL FAITH AND CREDIT, OF ONE OR MORE SERIES OF GENERAL OBLIGATION BOND ANTICIPATION NOTES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED THIRTY-EIGHT MILLION DOLLARS (\$38,000,000.00), PRIOR TO AND IN ANTICIPATION OF ANY SERIES OF BONDS, IN ORDER TO FINANCE, OR REIMBURSE PROJECT COSTS ON AN INTERIM BASIS, TOGETHER WITH CAPITALIZED INTEREST AND RELATED COSTS, AND FOR THE RENEWAL OF ANY SUCH SERIES OF BOND ANTICIPATION NOTES AND RELATED ACTIONS; AUTHORIZING THE ISSUANCE AND SALE FROM TIME TO TIME, UPON THE CITY'S FULL FAITH AND CREDIT, OF ONE OR MORE SERIES OF GENERAL OBLIGATION BONDS IN ORDER TO REFUND ANY OF THE BONDS ISSUED PURSUANT TO THE AUTHORITY OF THIS ORDINANCE AND TO PAY

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

RELATED COSTS AND COSTS OF ISSUANCE, PROVIDED THAT, THE AGGREGATE PRINCIPAL AMOUNT OF ANY SUCH SERIES OF REFUNDING BONDS SHALL NOT EXCEED ONE HUNDRED THIRTY PERCENT (130%) OF THE AGGREGATE PRINCIPAL AMOUNT OF THE BONDS REFUNDED THEREFROM; AUTHORIZING THE COUNCIL BY RESOLUTION TO MAKE ANY FURTHER DETERMINATIONS DEEMED NECESSARY OR DESIRABLE IN CONNECTION WITH THE ISSUANCE AND SALE OF ANY SUCH SERIES OF BOND ANTICIPATION NOTES OR REFUNDING BONDS; PROVIDING THAT THE PRINCIPAL OF AND/OR INTEREST ON ANY SUCH SERIES OF BONDS, BOND ANTICIPATION NOTES OR REFUNDING BONDS (EACH, A "SERIES OF OBLIGATIONS"), AS APPLICABLE, WILL BE PAYABLE IN THE FIRST INSTANCE FROM REVENUES RECEIVED BY THE CITY IN CONNECTION WITH THE OPERATION OF THE WASTEWATER SYSTEM SERVING THE CITY (AND TO THE EXTENT REQUIRED BY THE PURCHASER OF ANY SUCH SERIES OF OBLIGATIONS, FROM REVENUES RECEIVED BY THE CITY IN CONNECTION WITH THE OPERATION OF THE WATER SUPPLY SYSTEM SERVING THE CITY), ALL TO THE EXTENT ANY SUCH REVENUES ARE LAWFULLY AVAILABLE FOR SUCH PURPOSE; PROVIDING FOR THE LEVY OF AD VALOREM TAXES UPON ALL REAL AND PERSONAL PROPERTY WITHIN THE CITY'S CORPORATE LIMITS SUBJECT TO ASSESSMENT FOR UNLIMITED MUNICIPAL TAXATION TO PAY THE PRINCIPAL OF AND INTEREST ON ANY SUCH SERIES OF OBLIGATIONS IN EACH FISCAL YEAR; PLEDGING THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE CITY TO THE PROMPT PAYMENT OF THE PRINCIPAL OF AND INTEREST ON ANY SUCH SERIES OF OBLIGATIONS; PROVIDING THAT THE PRINCIPAL OF AND INTEREST ON ANY SUCH SERIES OF OBLIGATIONS ALSO MAY BE PAID FROM ANY OTHER SOURCES OF REVENUE LAWFULLY AVAILABLE TO THE CITY FOR THAT PURPOSE; AUTHORIZING THE COUNCIL BY RESOLUTION TO PROVIDE FOR ANY AMENDMENTS OR MODIFICATIONS TO ANY SERIES OF BONDS AUTHORIZED HEREBY AND RELATED DOCUMENTATION POST-ISSUANCE; PROVIDING THAT ANY OF THE BOND ANTICIPATION NOTES OR REFUNDING BONDS AUTHORIZED HEREBY MAY BE CONSOLIDATED WITH ANY OTHER BOND ANTICIPATION NOTES, BONDS AND/OR REFUNDING BONDS AUTHORIZED BY THE COUNCIL, AS APPLICABLE, AND ISSUED AS A SINGLE SERIES OF OBLIGATIONS; AUTHORIZING AND DIRECTING OFFICIALS AND EMPLOYEES OF THE CITY TO TAKE ANY AND ALL ACTION NECESSARY TO COMPLETE AND CLOSE THE ISSUANCE, SALE AND DELIVERY OF ANY SUCH SERIES OF OBLIGATIONS; PROVIDING THAT THIS TITLE SHALL BE DEEMED A STATEMENT OF THE SUBSTANCE OF THIS ORDINANCE FOR ALL PURPOSES; AND OTHERWISE GENERALLY RELATING TO THE ISSUANCE, SALE, DELIVERY AND PAYMENT OF AND FOR ANY SUCH SERIES OF OBLIGATIONS.

RECITALS

WHEREAS, City of Salisbury, a municipal corporation of the State of Maryland and a municipality within the meaning of the MWQFA Act identified below (the "City"), is authorized and empowered by Sections 19-301 to 19-309, inclusive, of the Local Government Article of the

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

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 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, the City has determined to undertake Biological Nutrient Removal (BNR) and Enhanced Nutrient Removal (ENR) upgrades and improvements to or benefiting the City’s existing wastewater treatment plant and system, including, without limitation, with respect to treatment processes including for solids and, in connection with such undertaking, to acquire or pay for the acquisition of necessary property rights and equipment, related site improvements and utilities, related architectural, planning, design, engineering, surveying, bidding, document development, permitting, acquisition, construction, improvement, installation, modification, demolition, removal, renovation, reconstruction, rehabilitation, equipping, inspection, construction administration, construction management and related costs, related financial, administrative and legal expenses, and costs of related activities, and has determined to borrow money for the public purpose of financing, reimbursing or refinancing all or a portion of the costs of any components of such activities, including costs of issuance relating to any such borrowing (collectively, the “Project”); and

WHEREAS, Title VI of the Federal Water Pollution Control Act (commonly known as the “Clean Water Act”), as amended by the Water Quality Act of 1987 (“Title VI”), authorizes the U.S. Environmental Protection Agency (the “EPA”) to award grants to qualifying states to establish and capitalize state water pollution control revolving funds (“SRFs”) for the purpose of providing loans and other forms of financial assistance to finance, among other things, the construction of publicly-owned wastewater treatment facilities, and the implementation of estuary conservation management plans and nonpoint source management programs; and

WHEREAS, as contemplated by Title VI, the General Assembly of Maryland at its 1988 session enacted the Maryland Water Quality Financing Administration Act, codified at Sections 9-1601 through 9-1622, inclusive, of the Environment Article of the Annotated Code of Maryland, as replaced, supplemented or amended (the “MWQFA Act”), establishing the Maryland Water Quality Financing Administration (the “Administration”) and establishing an SRF designated the Maryland Water Quality Revolving Loan Fund (the “SRF Fund”) to be maintained and administered by the Administration; and

WHEREAS, the MWQFA Act authorizes the Administration, among other things, to make a loan from the SRF Fund to a “local government” (as defined in the MWQFA Act) for the purpose of financing or refinancing all or a portion of the cost of a “wastewater facility” project (as defined in the MWQFA Act); and

WHEREAS, the City is a “local government” within the meaning of the MWQFA Act, and the Project is a “wastewater facility” project within the meaning of the MWQFA Act; and

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

WHEREAS, the MWQFA Act authorizes a local government to issue one or more bonds, notes or other evidences of obligation (each, a “loan obligation” as defined in the MWQFA Act) to evidence its indebtedness under a loan agreement with respect to a loan from the Administration, to sell any such bond, note or other evidence of obligation to the Administration at private sale, without public bidding, and to establish a dedicated source of revenues for repayment of such loan; and

WHEREAS, pursuant to the authority of the Enabling Act, the MWQFA Act and the Charter, the City has determined to borrow money from the Administration for the public purpose of financing, reimbursing or refinancing costs of the Project or such components of the Project as the Administration shall approve; and

WHEREAS, as of the date of introduction of this Ordinance, the Administration has advised that it currently anticipates making the City two loans for Project purposes: (i) one loan in principal amount not to exceed \$36,500,000.00, such loan to be evidenced by the issuance by the City to the Administration of a single taxable general obligation installment bond, and (ii) one loan in principal amount not to exceed \$1,500,000.00, such loan to be evidenced by the issuance by the City to the Administration of a taxable general obligation bond that is subject to forgiveness by the Administration; provided that, the final structure of any such financing (including the final principal amount of any bond) and the tax status of the interest payable on any such general obligation bond issued by the City to the Administration shall be determined by resolution; and

WHEREAS, in connection with the issuance and sale of any series of the general obligation bonds contemplated hereby, and pursuant to the authority of the MWQFA Act, the City will enter into one or more loan agreements with the Administration; and

WHEREAS, the City, as authorized by the MWQFA Act, and to the extent required by the Administration, may determine by resolution to pledge any moneys that the City is entitled to receive from the State of Maryland, including the City’s share of the State income tax, to secure its obligations under any loan agreement with the Administration; and

WHEREAS, as authorized by the Charter, the final details of any such series of bonds authorized hereby shall be determined by resolution as provided herein; and

WHEREAS, prior to issuing any such series of bonds to the Administration, the City may need to obtain interim financing in order to finance Project costs on a timely basis through the issuance of one or more series of its general obligation bond anticipation notes pursuant to the authority of Sections 19-211 to 19-223, inclusive, of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended (the “Bond Anticipation Note Enabling Act”), and the Charter; and

WHEREAS, subsequent to the issuance to the Administration of any series of bonds provided for herein, the City may desire to currently refund or advance refund all or a portion of such series of bonds pursuant to the authority of Section 19-207 of the Local Government Article of

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

the Annotated Code of Maryland, as replaced, supplemented or amended (the “Refunding Act”); and

WHEREAS, the City has determined to pledge its full faith and credit and unlimited taxing power to the prompt payment of debt service on any such series of bonds, bond anticipation notes or refunding bonds contemplated hereby; and

WHEREAS, the City expects to pay the principal of, and interest on, as applicable, any such bonds, bond anticipation notes or refunding bonds in the first instance from revenues received by the City in connection with the operation of wastewater system serving the City, including fees for use of or connection to such system and, to the extent required by the purchaser of any such series of obligations, from revenues received by the City in connection with the operation of the water system serving the City (referred to herein as the “water supply system”), including fees for use of or connection to such system, all to the extent lawfully available for such purpose; and

WHEREAS, the City has determined to issue any series of bonds, bond anticipation notes or refunding bonds authorized hereby in accordance with the terms and conditions provided for in a resolution or resolutions to be adopted by the Council of the City (the “Council”) pursuant to the authority of the Charter and this Ordinance.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that (a) 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.

(b) References in this Ordinance to any official by title shall be deemed to refer (i) to any official authorized under the Charter or other applicable law to act in such titled official’s stead during the absence or disability of such titled official, (ii) to any person who has been elected, appointed or designated to fill such position in an acting capacity under the Charter, the code of City ordinances (the “City Code”) or other applicable law, (iii) to any person who serves in a “Deputy” or “Assistant” capacity as such an official, provided that the applicable responsibilities, rights or duties referred to herein have been delegated to such deputy or assistant in accordance with applicable law or authority, and/or (iv) to the extent an identified official commonly uses another title not provided for in the Charter or the City Code, the official, however known, who is charged under the Charter, the City Code or other applicable law or authority with the applicable responsibilities, rights or duties referred to herein.

SECTION 2. BE IT FURTHER ORDAINED that pursuant to the authority of the Enabling Act, the MWQFA Act and the Charter, the City hereby determines to borrow money and incur indebtedness for the public purpose of financing, reimbursing or refinancing costs of the Project, all to the extent permitted by the Administration. The total cost of the Project not otherwise payable from other sources is not expected to exceed Thirty-eight Million Dollars (\$38,000,000.00). In the event the City issues any BANs (as defined in Section 11 hereof), proceeds of any Bonds (as

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

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.

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 Enabling Act, the MWQFA 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 Thirty-eight Million Dollars (\$38,000,000.00) (individually, a “Bond”, as applicable, a “series of the Bonds” 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.

SECTION 4. BE IT FURTHER ORDAINED that pursuant to the authority of the Enabling Act, the MWQFA Act and the Charter, the City will sell each series of the Bonds to the Administration by private sale, without public bidding, due to the ability to issue any series of the Bonds as draw-down obligations, the beneficial interest rate or rates customarily offered by the Administration, the ability to negotiate terms with the Administration, the lower costs of interest typically incurred with a private sale and, to the extent any series of the Bonds is subject to forgiveness by the Administration, such forgiveness feature.

SECTION 5. BE IT FURTHER ORDAINED that the proceeds of each series of the Bonds shall be used and applied by the City exclusively and solely for the public purposes described in Section 2 of this Ordinance, unless, with the approval of the Administration, a supplemental ordinance is enacted by the Council to provide for the use and application of such proceeds for some other proper public purpose authorized by the Enabling Act, the MWQFA Act or the Charter.

SECTION 6. BE IT FURTHER ORDAINED that (a) as required by the MWQFA Act, the City is hereby authorized to enter into one or more loan agreements with the Administration (each, a “Loan Agreement” and collectively, the “Loan Agreements”) in connection with any series of the Bonds. The final or substantially final form of each Loan Agreement shall be approved by the Council pursuant to the Resolution and the execution and delivery of each Loan Agreement shall be authorized by the Council pursuant to the Resolution.

(b) The City hereby acknowledges that the provisions of Article IV of each Loan Agreement (Events of Default and Remedies) allow for, among other remedies, all payments on the applicable series of the Bonds to be declared immediately due and payable upon the occurrence of an event of default provided for in such Loan Agreement.

SECTION 7. BE IT FURTHER ORDAINED that as authorized by Section 9-1606(d) of the MWQFA Act, the City may pledge any moneys that the City is entitled to receive from the State of Maryland, including the City’s share of the State income tax, to secure its obligations under any

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

Loan Agreement. Any such pledge shall be provided for in the Resolution and evidenced and detailed in the applicable Loan Agreement.

SECTION 8. BE IT FURTHER ORDAINED that pursuant to the authority of the Enabling Act, the Charter and this Ordinance, the Council, prior to the issuance, sale and delivery of any series of the Bonds, shall adopt a resolution or resolutions (in each such case, the "Resolution") specifying, prescribing, determining or providing for the determination of, or approving or providing for the approval of such matters, details, forms (including, without limitation, the complete form of the Bonds of such series), documents or procedures as may be required by the Enabling Act, the MWQFA Act, the Charter or this Ordinance or as the Council may deem appropriate for the authorization, sale, security, issuance, delivery, payment or prepayment of or for such series of the Bonds. The Resolution shall set forth, approve or provide for the approval of, among other matters, the designation of such series of the Bonds; the date of issuance of such series of the Bonds; the aggregate principal amount of such series of the Bonds; the principal installment or installments of, or the method of determining the principal installment or installments payable on, such series of the Bonds; the rate or rates of interest, or the method of determining the rate or rates of interest, which may be fixed or variable, payable on such series of the Bonds (and which may include a rate of zero percent (0.0%)); provisions relating to the payment of any late fees or penalties with respect to such series of the Bonds; the components of the Project on which such series of the Bonds will be expended and provisions for the appropriation and disposal of such proceeds; provisions relating to the prepayment of such series of the Bonds; the procedures for the sale of such series of the Bonds to the Administration by private sale, without public bidding; provisions relating to the principal forgiveness of such series of the Bonds, if applicable; and all other terms and conditions pursuant to which such series of the Bonds will be issued, sold and delivered. Any Resolution may specify, prescribe, determine or provide for the determination of, or approve or provide for the approval of the details required by this Section 8 for more than one series of the Bonds.

SECTION 9. BE IT FURTHER ORDAINED that the City is hereby authorized and directed to pay any fees or costs provided for in any Loan Agreement which are not payable from Bond proceeds, including, without limitation, any administrative fees and any ongoing fees or costs. The obligation of the City to pay any such amounts shall be absolute and unconditional as further provided in the applicable Loan Agreement or Loan Agreements.

SECTION 10. BE IT FURTHER ORDAINED that notwithstanding anything to the contrary contained in this Ordinance, the City shall use and apply proceeds of each series of the Bonds only as permitted by the related Loan Agreement, the Clean Water Act and the MWQFA Act.

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 Thirty-eight Million Dollars (\$38,000,000.00) (each, a "series of the BANs" and, collectively, the "BANs") prior to and in anticipation of the sale

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

of any series of the Bonds in order to finance or reimburse costs of the Project on an interim basis, including paying costs of issuance and 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 form 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 or providing for the determination of, or approving or providing for the approval of the same types of matters, details, forms, documents, procedures or determinations specified to be made or addressed in Section 8 hereof with respect to any series of the Bonds, to the extent applicable with respect to such series of the BANs, and as otherwise may be authorized or required by applicable law.

(b) As authorized by the Bond Anticipation Note Enabling Act, by resolution the Council may provide for the renewal of any series of the BANs at maturity with or without resale, together with any amendments of or modifications to such series of the BANs and any related documentation.

SECTION 12. BE IT FURTHER ORDAINED that (a) pursuant to the authority of the Refunding Act and the Charter, the City is hereby authorized and empowered to issue and sell from time to time, upon its full faith and credit, one or more series of general obligation bonds (each, a “series of the Refunding Bonds” and, collectively, the “Refunding Bonds”) for the purpose of currently refunding or advance refunding any of the Bonds issued pursuant to the authority of this Ordinance then outstanding, including paying all or any portion of outstanding principal, prepayment premium and/or interest accrued or to accrue to the date of prepayment, purchase or maturity of the Bonds to be refunded, and paying costs and expenses in connection with the issuance, sale and delivery of such series of the Refunding Bonds, and, to the extent determined by the Council by resolution, interest on such series of the Refunding Bonds, for the public purpose of realizing savings to the City in the aggregate cost of debt service on either a direct comparison or present value basis or in order to accomplish any debt restructuring that is permitted by applicable law; provided that, the aggregate principal amount of any such series of the Refunding Bonds may not exceed one hundred thirty percent (130%) of the aggregate principal amount of the Bonds refunded therefrom. Any such series of the Refunding Bonds may consist of one or more bonds and any bond may be issued in installment form and/or draw-down form. Prior to the issuance, sale and delivery of any series of the Refunding Bonds, the Council shall adopt a resolution or resolutions authorizing such series of the Refunding Bonds and specifying, prescribing, determining or providing for the determination of, or approving or providing for the approval of such matters, details, forms, documents, procedures or determinations specified to be made or addressed in Section 8 hereof with respect to each series of the Bonds, to the extent applicable with respect to such series of the Refunding Bonds, and as otherwise may be authorized or required by applicable law.

(b) To the extent any series of the Refunding Bonds is sold to the Administration, the Council by resolution may make provision for the documentation and security of such series of the Refunding Bonds in form, content and effect similar as to provided for in this Ordinance with

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

respect to any series of the Bonds, including, without limitation, entry into a new Loan Agreement or any modifications to an existing Loan Agreement, as applicable, provisions for the potential forgiveness of any such series of the Refunding Bonds, the identification of any source of dedicated revenues and provisions for any debt service reserve account with respect to such series of the Refunding Bonds required by the Administration.

SECTION 13. BE IT FURTHER ORDAINED that the Council is hereby authorized, by resolution, to make any further determinations or approvals or provide for any matters or actions deemed necessary or desirable in connection with the issuance of any series of the BANs or the Refunding Bonds authorized hereby, including, without limitation, (i) any determination authorized by the Bond Anticipation Note Enabling Act or the Refunding Act, as applicable, (ii) to commit or provide for the commitment of the City to pay to the purchaser or purchasers of any series of the BANs or the Refunding Bonds (A) any commitment fee or similar fee and any legal costs in connection with such purchaser's or purchasers' agreement to purchase such series of the BANs or the Refunding Bonds and/or (B) any breakage compensation or other amount that may be determined to be due to such purchaser or purchasers in the event the City fails to deliver such series of the BANs or the Refunding Bonds and, in connection therewith, to approve or provide for the approval of, and the execution and delivery of, any agreement relating to such payment or payments (which such agreement may, but shall not be required to be, contained within any purchase or similar agreement for such series of the BANs or the Refunding Bonds), and (iii) to approve or provide for any offering documents, credit enhancement, liquidity enhancement, ratings, or continuing disclosure undertakings relating to such series of the BANs or the Refunding Bonds.

SECTION 14. BE IT FURTHER ORDAINED that (a) the principal of and/or interest on each series of the Bonds, the BANs or the Refunding Bonds authorized hereby (each, a "series of the Obligations" and, individually, an "Obligation"), as applicable, will be payable in the first instance from revenues received by the City in connection with the operation of the wastewater system serving the City, including charges for the use of or connection to such system and, to the extent required by the purchaser of such series of the Obligations, from revenues received by the City in connection with the operation of the water supply system serving the City, including charges for the use of or connection to such water supply system, all to the extent such revenues are lawfully available for such purpose. (Any such identification of water supply system revenues as a source of payment for the applicable series of the Obligations shall be provided for in the Resolution, any resolution relating to a series of the BANs or the Refunding Bonds or a Loan Agreement, as applicable.) In the event such moneys are insufficient in any fiscal year to provide for the prompt payment, when due, of the principal of and interest on any series of the Obligations, the City shall levy or cause to be levied, for each and every fiscal year during which such series of the Obligations may be outstanding, ad valorem taxes 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 such series of the Obligations 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.

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

(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 each series of the Obligations 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 such series of the Obligations. The City hereby covenants with the registered owner of each Obligation to take any action that may be lawfully appropriate from time to time during the period that such Obligation 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 any series of the Obligations from the proceeds of the sale of any other obligations of the City (including, without limitation, with respect to any BANs, from proceeds of any Bonds, and with respect to any Bonds, from the proceeds of any Refunding Bonds) or from any other funds legally available for that purpose. Within any applicable limitations of Maryland or federal law (including, without limitation, the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder), the City may apply to the payment of the principal of or interest on any series of the Obligations any funds received by it from the State of Maryland 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 or projects which such series of the Obligations are issued to finance, reimburse or refinance or are otherwise available for such purpose, 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 15. BE IT FURTHER ORDAINED that in addition to the refunding authority provided for in Section 12 of this Ordinance, subsequent to the sale, issuance and delivery of any series of the Bonds to the Administration, the Council by resolution may specify, prescribe, determine or provide for the determination of, or approve or provide for the approval of any amendments or modifications to such series of the Bonds and/or the related Loan Agreement or Loan Agreements and any other documents, agreements, certificates or instruments executed and delivered in connection with the sale, issuance and delivery of such series of the Bonds, and/or provide for the execution and delivery of additional documents, agreements or relating to such amendments or modifications (including, without limitation, any bond or bonds to be issued and exchanged for one or more of such series of the Bonds originally issued and delivered and any new or restated Loan Agreement), whether or not such amendments or modifications constitute a refunding or reissuance for purposes of federal and/or Maryland law.

SECTION 16. BE IT FURTHER ORDAINED that by resolution, the Council may determine that any series of the BANs or the Refunding Bonds authorized hereby may be consolidated with any bond anticipation notes, bonds and/or refunding bonds authorized by the Council, as applicable, and issued as a single series of obligations.

SECTION 17. BE IT FURTHER ORDAINED that the following officials of the City: the Mayor, the President of the Council, the Vice President of the Council, the City Administrator, the

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

Director of Internal Services, the Assistant Director of Internal Services-Finance, the City Clerk, and all other appropriate officials and employees of the City, are hereby authorized and directed to take any and all action necessary to complete and close the sale, issuance and delivery of any series of the Obligations authorized hereby, including, without limitation, to negotiate, approve, execute and deliver all closing documents, certificates and instruments necessary or appropriate in connection therewith, and to consummate and carry out the transactions contemplated by this Ordinance.

SECTION 18. BE IT FURTHER ORDAINED that the title of this Ordinance shall be deemed to be, and is, a statement of the substance of this Ordinance for publication and all other purposes.

SECTION 19. BE IT FURTHER ORDAINED that this Ordinance shall become effective following approval by the Mayor or subsequent passage by the Council in accordance with the provisions 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 13th day of April, 2015, and thereafter, a statement of the substance of this Ordinance having been posted or published as required by law, was finally passed by the Council ✓ [as introduced] _____ [as amended] [CHECK APPLICABLE LINE] on the 27th day of April, 2015.

ATTEST:

Kimberly R. Nichols
Kimberly R. Nichols, City Clerk

Jacob R. Day
Jacob R. Day, City Council President

APPROVED BY ME THIS 6th DAY OF May, 2015:

James Ireton, Jr.
James Ireton, Jr., Mayor

#170865;58111.034

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

City of Salisbury



JAMES IRETON, JR.
MAYOR

M. THOMAS STEVENSON, JR.
CITY ADMINISTRATOR

125 NORTH DIVISION STREET
SALISBURY, MARYLAND 21801
Tel: 410-548-3170
Fax: 410-548-3107

MARYLAND

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

TO: Thomas Stevenson, Jr., City Administrator
FROM: Mike Moulds, Director of Public Works *MSM*
DATE: March 2, 2015
SUBJECT: MWQFA Loan Ordinance for the WWTP BNR/ENR Upgrade

The attached Ordinance authorizes the City to issue and sell general obligation bonds in an amount not to exceed thirty-eight million dollars (\$38,000,000.00). The bonds will be used for the purpose of financing, reimbursing or refinancing costs incurred in connection with Enhanced Nutrient Removal (ENR) and Biological Nutrient Removal (BNR) Upgrades. The project is funded through the Maryland Water Quality Financing Administration (MWQFA) at a zero interest rate over a 20 year term.

This ordinance is being considered prior to the bid openings for the WWTP Construction and the Construction Management/ Inspection contract in order to meet deadlines for approvals to award the contracts. The maximum loan amount of \$38,000,000 is estimated by including a 5% contingency to the original loan request of \$36,480,000.

The estimated total project cost including construction, preliminary engineering/corrective action plan, engineering design, construction management and inspection is \$68,679,000. In addition to bonds that funded the preliminary engineering, MDE BNR/ENR grants in the estimated amount of \$28,300,000 will cover the rest of the project costs.

Unless you or the Mayor have further questions, please forward a copy of this memo to the City Council.