

Resolution No. 2034

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY ENTITLED A RESOLUTION SUPPLEMENTING RESOLUTION NO. 1620, ADOPTED BY THE COUNCIL ON JANUARY 14, 2008, APPROVED BY THE MAYOR ON JANUARY 15, 2008 AND EFFECTIVE ON JANUARY 15, 2008, AS AMENDED AND SUPPLEMENTED BY RESOLUTION NO. 1750, ADOPTED BY THE COUNCIL ON JANUARY 12, 2009, APPROVED BY THE MAYOR ON JANUARY 13, 2009 AND EFFECTIVE ON JANUARY 13, 2009, IN ORDER TO AUTHORIZE AND EMPOWER CITY OF SALISBURY TO USE AND APPLY A PORTION OF THE PROCEEDS OF THE \$3,605,000 CITY OF SALISBURY PUBLIC IMPROVEMENTS BOND OF 2008 ISSUED ON JANUARY 22, 2008 (THE "2008 BOND") FOR THE PUBLIC PURPOSE OF FINANCING OR REIMBURSING COSTS RELATING TO THE REPAIR AND/OR REPLACEMENT OF THE BEAVERDAM DRIVE BRIDGE; AUTHORIZING, DIRECTING OR EMPOWERING CITY OFFICIALS AND EMPLOYEES TO TAKE CERTAIN ACTIONS WITH RESPECT TO THE 2008 BOND; AND OTHERWISE GENERALLY RELATING TO THE USE OF PROCEEDS OF THE 2008 BOND.

RECITALS

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

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

WHEREAS, pursuant to Resolution No. 1620, adopted by the Council on January 14, 2008, approved by the Mayor on January 15, 2008 and effective on January 15, 2008 (the "Original Resolution"), the City determined to borrow money for the public purpose of financing or reimbursing "costs" (as defined in Section 2(b) of the Original Resolution) of the Authorized Projects specified in Section 2(a) of the Original Resolution (which included all of the Authorized Projects other than the one identified in the Original Ordinance as "Salisbury Zoo – Animal Health Building Construction") plus a portion of the authorized "Costs of Issuance", and to evidence this borrowing by the issuance and sale of its Public Improvements Bond of 2008 in

the principal amount of Three Million Six Hundred Five Thousand Dollars (\$3,605,000) (the "2008 Bond"); and

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

WHEREAS, Section 2 of the Original Resolution provides that proceeds of the 2008 Bond shall be appropriated and allocated to the specified Authorized Projects identified therein, subject to the provisions of such Section 2 (which projects are referred to as the "Projects" in the Original Resolution); and

WHEREAS, subsequent to the passage of the Original Ordinance and the Original Resolution and the issuance of the 2008 Bond, the City determined that instead of applying \$500,000.00 of the proceeds of the 2008 Bond (exclusive of investment earnings that may be applied for such purpose) to the project identified as "Elevated Water Tower/North – Engineering" in both the Original Ordinance and the Original Resolution, the City would apply such 2008 Bond proceeds to engineering costs for water storage that may involve a water tank, a water tower or some other type of improvement for water storage and that may be located in a different geographic area of the City other than the northern area and, therefore, determined to modify the description of such project and to remove the geographic reference to such project as contained in the Original Ordinance and the Original Resolution (the "2009 Modified Project"); and

WHEREAS, pursuant to Ordinance No. 2069, passed by the Council on January 12, 2009, approved by the Mayor on January 13, 2009 and effective on January 13, 2009 ("Ordinance No. 2069"), and Resolution No. 1750, adopted by the Council on January 12, 2009, approved by the Mayor on January 13, 2009 and effective on January 13, 2009 ("Resolution No. 1750"), the City respectively amended and supplemented the Original Ordinance and the Original Resolution in order to provide for the application of \$500,000.00 of the proceeds of the 2008 Bond (exclusive of investment earnings that may be applied for such purpose) to costs of the 2009 Modified Project; and

WHEREAS, the term "costs" has identical meanings as used in the Original Ordinance, Ordinance No. 2069, the Original Resolution and Resolution No. 1750; and

WHEREAS, the Original Ordinance, as amended and supplemented by Ordinance No. 2069, is herein referred to as the "Existing Ordinance", and the Original Resolution, as amended and supplemented by Resolution No. 1750, is herein referred to as the "Existing Resolution"; and

WHEREAS, the Existing Ordinance and the Existing Resolution provide that \$322,000.00 of the proceeds of the 2008 Bond (exclusive of investment earnings that may be applied for such purpose) are to be applied to costs of a project identified therein as "Beaverdam Drive Bridge – Repairs"; and

WHEREAS, by issuance of the 2008 Bond, the City did not exhaust all of the bonding authority provided for in the Original Ordinance, but the Original Resolution provides that the \$322,000.00 maximum principal amount of 2008 Bond proceeds authorized to be applied to the Beaverdam Drive Bridge – Repair project identified in the Original Ordinance (exclusive of investment earnings that may be applied for such purpose) are allocated to the 2008 Bond; and

WHEREAS, while the City originally intended to repair Beaverdam Drive Bridge, it has subsequently determined that Beaverdam Drive Bridge will likely need to be replaced, and the City desires to allow the use of proceeds of the 2008 Bond for costs of any combination of repair and/or replacement of the Beaverdam Drive Bridge and related activities (the “2011 Modified Project”); and

WHEREAS, accordingly, the City desires to revise the description of the projects as set forth in the Existing Resolution in order to allow proceeds of the 2008 Bond to be applied to costs of the 2011 Modified Project.

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 the Sections of this Resolution that are not defined therein shall have the meanings given to such terms in the Recitals.

SECTION 2. BE IT FURTHER RESOLVED that (a) pursuant to the authority of the Enabling Act, the Charter and the Original Resolution, Section 2(a) of the Original Resolution and Section 1(a) of Resolution No. 1750 are hereby deleted in their respective entireties and inserted in place thereof shall be the following:

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

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

The projects identified in items 1 - 8 above are collectively referred to herein as the “Projects”. Further, it is the intention of the City that proceeds of the Bond (as defined in Section 3 hereof) may be spent on any applicable costs (as defined in subsection (b) below) relating to the Projects identified in items 1-8 above.”

(b) By undertaking the amendments to Section 2(a) of the Original Resolution and Section 1(a) of Resolution No. 1750 provided for in subsection (a) of this Section 2, the City is revising the description of the project identified as number 5 in Section 2(a) of the Original Resolution and Section 1(a) of Resolution No. 1750 to allow for application of 2008 Bond proceeds to costs of the repair and/or replacement of the Beaverdam Drive Bridge and any other related activities. By undertaking the amendments provided for in subsection (a) of this Section 2, the City is superseding the amendments to Section 2(a) of the Original Resolution provided for in Section 1(a) of Resolution No. 1750, without undoing the intended effect of Section 1(a) of Resolution No. 1750 with respect to the project identified therein as “Water Storage – Engineering”.

(c) The projects identified in the chart set forth in subsection (a) above are collectively referred to herein as the “2011 Revised Projects”. From and after the effective date of this Resolution, all references to the Projects in the Existing Resolution shall be deemed to be references to the 2011 Revised Projects, as identified in this Resolution. From and after the effective date of this Resolution, the provisions of this Section 2 shall supersede the provisions of Section 2(a) of the Original Resolution and Section 1(a) of Resolution No. 1750 with respect to the application of proceeds of the 2008 Bond.

(d) Notwithstanding the foregoing provisions of this Section 2, proceeds of the 2008 Bond may not be applied to costs of the 2011 Modified Project unless and until the City enacts an ordinance making corresponding amendments to the provisions of Section 3(b) of the Original Ordinance, as amended and supplemented by Ordinance No. 2069, to allow proceeds of the 2008 Bond to be applied to costs of the 2011 Modified Project.

SECTION 3. BE IT FURTHER RESOLVED that, subject to the provisions of Section 2(d) of this Resolution, any two of the Mayor, the City Administrator and the Director of Internal Services are hereby authorized and empowered to supplement the Tax and Section 148 Certificate dated January 22, 2008, executed and delivered in connection with the issuance of the 2008 Bond, as the same may have been supplemented to date, in order to evidence the expectations of the City as to the application of the proceeds of the 2008 Bond following the effective date of this Resolution.

SECTION 4. BE IT FURTHER RESOLVED that, subject to the provisions of Section 2(d) of this Resolution, the Mayor, the City Administrator, the Director of Internal Services, the City Clerk and all other appropriate officials and employees of the City, as applicable, are hereby authorized and directed to take any and all action necessary to provide for application of the proceeds of the 2008 Bond to finance or reimburse the costs of the 2011 Revised Projects and to execute and deliver all documents, certificates and instruments necessary or appropriate in connection therewith or in connection with the transactions contemplated by this Resolution.

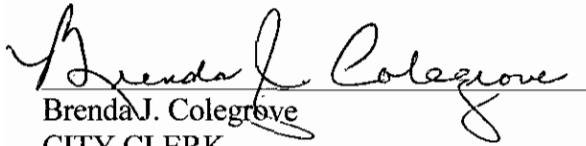
SECTION 5. BE IT FURTHER RESOLVED that, subject to the provisions of Section 2(d) of this Resolution, from and after the effective date of this Resolution, the Existing Resolution shall be deemed amended and supplemented as provided herein and all other terms and provisions of the Existing Resolution shall remain in full force and effect.

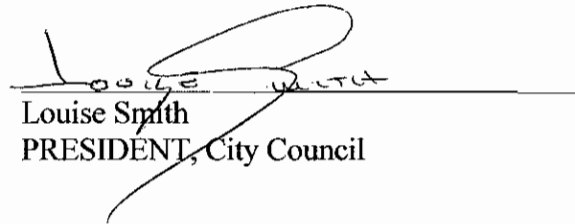
SECTION 6. BE IT FURTHER RESOLVED that this Resolution shall become effective upon adoption by the Council and approval by the Mayor; provided, however, in the event the City fails to enact an ordinance making corresponding amendments to the provisions of Section 3(b) of the Original Ordinance, as amended and supplemented by Ordinance No. 2069, to allow proceeds of the 2008 Bond to be applied to costs of the 2011 Modified Project, the City may not apply proceeds of the 2008 Bond for such purpose, notwithstanding the effective date of this Resolution. Pursuant to Charter Section SC7-46A, this Resolution may not be petitioned to referendum.

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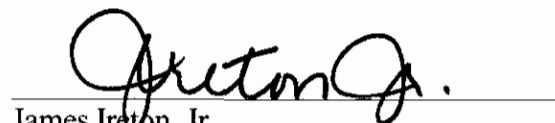
THIS RESOLUTION was introduced and read at a meeting of the Council of the City of Salisbury held on the 28th day of February, 2011, and was adopted by the Council as introduced on the 28th day of February, 2011.

ATTEST:


Brenda J. Colegrove
CITY CLERK


Louise Smith
PRESIDENT, City Council

Approved by me this 1st day of
March, 2011.


James Ireton, Jr.
MAYOR, City of Salisbury