

RESOLUTION NO. 2236

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY AUTHORIZING THE ISSUANCE AND SALE BY CITY OF SALISBURY (THE "CITY") OF ITS GENERAL OBLIGATION BOND IN THE PRINCIPAL AMOUNT OF \$6,050,000.00, SUBJECT TO REDUCTION AS PROVIDED HEREIN, PURSUANT TO THE AUTHORITY OF SECTIONS 31 TO 37, INCLUSIVE, OF ARTICLE 23A OF THE ANNOTATED CODE OF MARYLAND, AS REPLACED, SUPPLEMENTED OR AMENDED, 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, AND ORDINANCE NO. 2223, PASSED BY THE COUNCIL OF THE CITY ON OCTOBER 22, 2012, APPROVED BY THE MAYOR OF THE CITY ON OCTOBER 23, 2012 AND EFFECTIVE ON OCTOBER 23, 2012, THE BOND TO BE DESIGNATED "CITY OF SALISBURY TAXABLE PUBLIC IMPROVEMENTS BOND OF 2012" (THE "BOND") AND THE PROCEEDS OF THE SALE THEREOF TO BE USED AND APPLIED FOR THE PUBLIC PURPOSE OF FINANCING OR REIMBURSING COSTS OF THE PUBLIC PURPOSE PROJECTS IDENTIFIED HEREIN AS: CAUSTIC CHEMICAL FEED BUILDING AND WASTEWATER TREATMENT PLANT UPGRADE, TOGETHER WITH RELATED COSTS AND COSTS OF ISSUANCE; PRESCRIBING THE FORM AND TENOR OF THE BOND AND THE TERMS AND CONDITIONS FOR THE ISSUANCE AND SALE THEREOF BY PRIVATE (NEGOTIATED) SALE WITHOUT ADVERTISEMENT OR SOLICITATION OF COMPETITIVE BIDS TO SUNTRUST BANK; PRESCRIBING THE TERMS AND CONDITIONS OF THE BOND AND OTHER DETAILS INCIDENT TO THE ISSUANCE, SALE AND DELIVERY OF THE BOND AND AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY, TO DETERMINE THE FINAL PRINCIPAL AMOUNT OF THE BOND AND TO ADJUST THE AMORTIZATION SCHEDULE THEREFOR; PROVIDING FOR THE DISBURSEMENT AND INVESTMENT OF THE PROCEEDS OF THE BOND; PROVIDING THAT A PORTION OF THE DEBT SERVICE PAYABLE ON THE BOND WILL BE PAYABLE IN THE FIRST INSTANCE FROM WATER SYSTEM REVENUES OR SEWER SYSTEM REVENUES, AS APPLICABLE; PROVIDING FOR THE LEVY AND COLLECTION OF AD VALOREM TAXES SUFFICIENT FOR, AND PLEDGING THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE CITY TO, THE PROMPT PAYMENT OF PRINCIPAL AND INTEREST ON THE BOND; PROVIDING THAT THE PRINCIPAL OF AND INTEREST ON THE BOND ALSO MAY BE PAID FROM ANY OTHER SOURCES OF REVENUE LAWFULLY AVAILABLE TO THE CITY FOR SUCH PURPOSE; AND GENERALLY RELATING TO THE ISSUANCE, SALE, DELIVERY AND PAYMENT OF AND FOR THE BOND.

RECITALS

WHEREAS, City of Salisbury, a municipal corporation of the State of Maryland (the "City"), is authorized and empowered by Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Enabling Act"), and Sections SC7-45 and SC7-46 of the Charter of the City of Salisbury, as published in Municipal Charters of Maryland, Volume 7, 2008 Replacement Edition, as replaced, supplemented or

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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. 2223, passed by the Council of the City (the "Council") on October 22, 2012, approved by the Mayor of the City (the "Mayor") on October 23, 2012 and effective on October 23, 2012 (the "Ordinance"), the City authorized the issuance and sale from time to time, upon its full faith and credit, of one or more series of bonds in an aggregate principal amount not to exceed Six Million Fifty Thousand Dollars (\$6,050,000.00) (the "Authorized Bonds"); and

WHEREAS, the Ordinance provides that the proceeds of the sale of the Authorized Bonds are to be used and applied for the public purpose of financing, reimbursing or refinancing the costs of certain specified projects identified in Section 3(b) of the Ordinance, including paying costs of issuance (the "Authorized Projects"); and

WHEREAS, the Ordinance further provides that the Authorized Bonds may be issued from time to time in one or more series and that any such series may be issued as one or more bonds and that any bond may be issued in installment form; and

WHEREAS, the City has determined that it is in a position to proceed with a sale of the Authorized Bonds and desires to sell a series of the Authorized Bonds in the maximum principal amount authorized by the Ordinance, subject to reduction as provided herein, and in the form of a single general obligation installment bond; and

WHEREAS, as authorized by Section SC7-46 of the Charter, and based on the recommendation of Davenport & Company LLC, the financial advisor to the City, that current market conditions warrant a sale of the Authorized Bonds by private (negotiated) sale without advertisement or solicitation of competitive bids due to the ability in the current municipal capital market to achieve favorable interest rates through a private (negotiated) sale, the ability to time the market, the ability to negotiate with potential purchasers and the lower costs of issuance typically associated with a private (negotiated) sale, Davenport & Company LLC, with the participation of the Director of Internal Services of the City (the "Director of Internal Services") and bond counsel to the City, provided for the distribution to banking institutions and other institutional investors in the general vicinity of the City and in the Baltimore-Washington, D.C. regional area of a solicitation for indications of interest dated October 23, 2012 for the purchase of such bond in the maximum aggregate principal amount of up to \$6,050,000.00, and to be issued on a taxable basis, in order to determine the potential purchasers likely to offer the most beneficial interest rates and satisfactory terms and, thereby, to obtain for the City, as nearly as possible, the best possible results for the sale of such bond without conducting a public sale by the solicitation of competitive bids; and

WHEREAS, potential respondents were asked to submit proposals providing for a bond maturing on either July 1, 2028 or July 1, 2033; and

WHEREAS, two proposals were received in response to such solicitation for indications of interest, one offering both an approximately 15.5 year and a 20.5 year amortization period and

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the other offering only an approximately 15.5 year amortization period, and the financial advisor to the City and the Director of Internal Services recommend that SunTrust Bank be selected as the purchaser of the bond and that the City select the approximately 15.5 year amortization period offered by such bank because by selecting such option the City will lock in a very attractive interest rate for the entire term of the bond (the interest rate on the approximately 20.5 year option is subject to reset or to a put at the approximately 10.5 year point at the bank's discretion) and SunTrust Bank offered the most advantageous prepayment terms and other satisfactory terms; and

WHEREAS, the Council has determined that it is in the best interests of the City and its citizens to issue and sell a single series of the Authorized Bonds in the form of a single general obligation installment bond with annual serial installments in accordance with, and pursuant to, the authority contained in the Enabling Act, the Charter and the Ordinance, and upon the terms and conditions set forth in this Resolution, the proceeds of which general obligation installment bond are to be used and applied as herein set forth; and

WHEREAS, the maximum \$6,050,000.00 aggregate principal amount of the bond provided for herein shall not cause the City to exceed the debt limit provided for in Charter Section SC7-48.

SECTION 1. NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that (a) the Recitals hereto constitute an integral part of this Resolution and are incorporated herein by reference. Capitalized terms used in the Recitals to this Resolution and not otherwise defined herein shall have the meanings given to such terms in the Recitals.

(b) References in this Resolution 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 or other applicable law, and/or (iii) 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 RESOLVED that (a) pursuant to the authority of the Enabling Act, the Charter and the Ordinance, and subject to the provisions of Section 3 hereof, 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 (exclusive of any investment earnings that may be applied for such purposes):

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	<u>Project Name</u>	<u>Maximum Principal Amount</u>
1.	Caustic Chemical Feed Building	\$ 1,200,000.00
2.	Wastewater Treatment Plant Upgrade	4,800,000.00
3.	Costs of Issuance	50,000.00
	TOTAL	<u>\$6,050,000.00</u>

The projects and costs of issuance identified in items 1-3 above are collectively referred to herein as the "Projects".

(b) With respect to the Projects listed above, the word "costs" shall include, as applicable, land and right-of-way acquisition and development; site and utility improvements; acquisition, construction, expansion, demolition, reconstruction, replacement, renovation, rehabilitation, improvement, installation, furnishing and equipping activities and expenses, and related or similar costs; planning, design, engineering, architectural, feasibility, inspection, construction management, surveying, financial and legal expenses, and related or similar costs; costs of issuance; capitalized interest (whether or not expressly so stated); and any such costs that may represent the City's share or contribution to the financing, reimbursement or refinancing of any such project.

(c) Proceeds of the Bond identified in Section 3 below are hereby appropriated and allocated to pay costs of the Projects in the maximum principal amount specified for each Project in subsection (a) above (exclusive of any investment earnings that may be applied for such purposes); provided that, the City, without notice to or the consent of the registered owner of the Bond, may reallocate the maximum principal amount of the proceeds of the Bond to be spent among the Projects identified in such subsection (a) in compliance with applicable City budgetary procedures or applicable law.

SECTION 3. BE IT FURTHER RESOLVED that (a) to evidence the borrowing and indebtedness authorized in Section 2 of this Resolution, the City, acting pursuant to the authority of the Enabling Act, the Charter and the Ordinance, hereby determines to issue and sell, upon its full faith and credit, its general obligation installment bond in the principal amount of Six Million Fifty Thousand Dollars (\$6,050,000.00) or, in the event it is determined prior to issuance of the Bond identified in the next sentence that costs of issuance will be less than \$50,000.00 or the City does not need to issue the maximum principal amount provided for either of the other two Projects identified in Section 2(a) of this Resolution, the Bond shall be issued in such lesser principal amount as the Mayor shall determine with the assistance of the financial advisor to the City, the City Administrator of the City (the "City Administrator") and the Director of Internal Services of the City. Such bond shall be designated the "City of Salisbury Taxable Public Improvements Bond of 2012" (the "Bond").

(b) In the event the Mayor, with the advice of the financial advisor to the City, the City Administrator and the Director of Internal Services, determines that costs of issuance will

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be less than \$50,000.00 or the City does not need to issue the maximum principal amount provided for the either of the other two Projects identified in Section 2(a) of this Resolution, the Mayor, on behalf of the City, is hereby authorized and empowered to approve the final lesser principal amount of the Bond, such approval to be evidenced conclusively by the Mayor's execution and delivery of the Bond in accordance with Sections 6 and 8 hereof.

SECTION 4. BE IT FURTHER RESOLVED that (a) the Bond shall be dated the date of its delivery and shall be issued in the form of a single, fully-registered bond, without coupons attached. The Bond shall mature, subject to prior prepayment as provided for in accordance with Section 5 of this Resolution, on July 1, 2028. Subject to the remaining provisions of this subsection (a), principal of the Bond shall be payable in sixteen (16) annual serial installments on July 1 of each year, commencing July 1, 2013 and ending on July 1, 2028, subject to prior prepayment as provided for in accordance with Section 5 of this Resolution, as follows:

<u>Date</u>	<u>Principal Installment</u>	<u>Date</u>	<u>Principal Installment</u>
July 1, 2013	\$284,000	July 1, 2021	\$381,000
July 1, 2014	309,000	July 1, 2022	393,000
July 1, 2015	318,000	July 1, 2023	405,000
July 1, 2016	328,000	July 1, 2024	417,000
July 1, 2017	338,000	July 1, 2025	430,000
July 1, 2018	348,000	July 1, 2026	443,000
July 1, 2019	359,000	July 1, 2027	457,000
July 1, 2020	370,000	July 1, 2028	470,000

The foregoing principal amortization schedule was prepared by the financial advisor to the City and assumes that the Bond will be issued and delivered on November 30, 2012 in the principal amount of Six Million Fifty Thousand Dollars (\$6,050,000.00). The Mayor, on behalf of the City, with the advice of the financial advisor to the City, the City Administrator and the Director of Internal Services, prior to the issuance and delivery of the Bond, is hereby authorized and empowered to make revisions to such principal amortization schedule (i) to reflect any reduction of the final principal amount of the Bond as contemplated in Section 3 above, (ii) to reflect a different date of issuance of the Bond, and/or (iii) to correct typographical or calculation errors, provided that any such revised amortization schedule is structured on a roughly level debt service basis (annualized), such revised amortization schedule to be prepared by the financial advisor to the City or the Purchaser of the Bond provided for in Section 9 hereof and reflected in the executed and delivered Bond, and the Mayor's approval thereof to be evidenced conclusively by his execution and delivery of the Bond as provided for in Sections 6 and 8 hereof.

(b) The Bond shall bear interest from its date of delivery at the rate of three and one hundredths percent (3.01%) per annum.

(c) Interest on the Bond shall be payable on January 1 and July 1 in each year until maturity or prior prepayment in full, commencing on July 1, 2013; provided that, the last installment of interest shall be paid on the date that principal of the Bond is retired or prepaid in full.

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The Bond shall bear interest from the most recent date to which interest has been paid or, if no interest has been paid, from the date of its delivery. Interest shall be computed on the basis of a 360-day year comprised of 12 30-day months. For purposes of calculating the interest due on the Bond, unpaid outstanding principal on any date shall be an amount equal to the original principal amount of the Bond, less any principal installment paid in accordance with subsection (a) above, and less any principal prepaid in accordance with Section 5 below.

(d) The registered owner of the Bond shall provide written notice to the Director of Internal Services of the interest and, if applicable, principal due on the Bond on each interest payment date at least ten (10) days prior to such interest payment date, or such fewer number of days as is acceptable to the Director of Internal Services, but failure to deliver such notice shall not affect the amount of, or the City's obligation to pay, principal or interest due on the Bond. The date and amount of each principal installment payment made by the City on the Bond shall be noted by the registered owner of the Bond on its books and records, which notation when made will be presumed correct absent manifest error. The registered owner's failure to make appropriate notation of any such principal installment payment shall not limit or otherwise affect the City's obligations hereunder.

(e) If a principal payment date or interest payment date falls on a Saturday, Sunday or a day on which the City, banks in the State of Maryland and/or banks in the state in which the registered owner of the Bond is located are not required to be open, payment may be made on the next succeeding day that is not a Saturday, Sunday or a day on which the City, banks in the State of Maryland and/or banks in the state in which the registered owner of the Bond is located are not required to be open, and no interest shall accrue on the scheduled amount owed for the intervening period.

(f) Principal of and interest on the Bond shall be payable in lawful money of the United States of America. The principal of the Bond, at maturity or upon prior prepayment in full, shall be payable by check or draft at the office of the Director of Internal Services in Salisbury, Maryland, unless the Director of Internal Services and the registered owner of the Bond agree on a different place or manner of payment. Principal of the Bond, prior to maturity or prior prepayment in full, and interest on the Bond will be payable by check or draft mailed to the registered owner thereof at the address designated by the registered owner in writing to the Director of Internal Services unless the Director of Internal Services and the registered owner agree on a different manner of payment. The Director of Internal Services, on behalf of the City, is hereby authorized and empowered to make the agreements provided for in this Section 4(f).

SECTION 5. BE IT FURTHER RESOLVED that the Bond shall be subject to prepayment prior to maturity at the option of the City in whole or in part at any time, at a prepayment price of the par amount of the Bond outstanding to be prepaid, plus accrued interest on the principal amount being prepaid to the date fixed for prepayment, without premium or penalty. Notice of optional prepayment shall be given by the City at least fifteen (15) days prior to the date fixed for prepayment (or such fewer number of days as is acceptable to the registered owner of the Bond) by mailing or otherwise giving to such registered owner a notice fixing the prepayment date, indicating the principal amount of the Bond to be prepaid and, if the Bond is to

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be prepaid in part, the future installments against which such partial prepayment shall be applied. Any such notice may be conditioned upon receipt of funds sufficient to effect such prepayment.

SECTION 6. BE IT FURTHER RESOLVED that the Bond 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 Bond and attested by the signature of the City Clerk of the City (the "City Clerk"). In the event any official of the City whose signature appears on the Bond shall cease to be such official prior to the delivery of the Bond, or, in the event any such official whose signature appears on the Bond shall have become such after the date of issue thereof, the Bond shall nevertheless be a valid and binding obligation of the City in accordance with its terms.

SECTION 7. BE IT FURTHER RESOLVED that the Bond shall be transferable only upon the books kept for that purpose by the Director of Internal Services at Salisbury, Maryland, by the registered owner thereof in person or by the registered owner's attorney duly authorized in writing, upon surrender thereof, together with (i) a written instrument of transfer in a form satisfactory to the Director of Internal Services and duly executed by the registered owner or the registered owner's duly authorized attorney and (ii) a written covenant and agreement substantially in substance as described in Section 9(b) hereof duly executed by the transferee. Upon such transfer there shall be issued in the name of the transferee a new registered Bond of the same series in principal amount equal to the unpaid principal amount of the Bond surrendered, and with the same maturity date and installment payment dates and amounts (or then-remaining installment payment dates and amounts, as applicable) and bearing interest at the same rate.

SECTION 8. BE IT FURTHER RESOLVED that except as provided hereinafter or in a resolution or resolutions of the Council adopted prior to the issuance of the Bond, the Bond shall be issued substantially in the form attached hereto as Exhibit A and incorporated by reference herein. Appropriate variations and insertions may be made by the Mayor to such form to provide dates, numbers, amounts and other terms (including, without limitation, to reflect matters determined in accordance with Sections 3 and 4 hereof), and modifications not altering the substance of the Bond to carry into effect the purposes of this Resolution or to comply with recommendations of legal counsel. All of the covenants contained in the form of the Bond as finally executed and delivered by the Mayor in accordance with the provisions of Section 6 hereof and this Section 8 are hereby adopted by the City as and for the form of obligation to be incurred by the City, and the covenants and conditions contained therein are hereby made binding upon the City, including the promise to pay therein contained. The execution and delivery of the Bond by the Mayor in accordance with this Resolution shall be conclusive evidence of the approval by the Mayor of the final form of the Bond and of any variations, insertions, omissions, notations, legends or endorsements authorized by this Resolution.

SECTION 9. BE IT FURTHER RESOLVED that (a) the City hereby ratifies, confirms, approves and adopts as actions of the City all actions taken by the financial advisor to the City, the Director of Internal Services and bond counsel to the City, on behalf of the City, to identify the banking institution or institutional investor which offered the most beneficial interest rate for the Bond and satisfactory prepayment and other terms, including, without limitation, the

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preparation, execution, delivery and circulation of the request for indications of interest dated October 23, 2012 and further communications with respondents to the solicitation in order to clarify terms of their proposals. The City hereby determines that it shall be in the best interests of the City to sell the Bond by private (negotiated) sale without advertisement or solicitation of competitive bids to SunTrust Bank (by whatever legal name known), which submitted the most advantageous proposal to the City for the purchase of the Bond pursuant to such solicitation, which sale on a negotiated basis is hereby deemed by the City to be in its best interest and in the interest of its citizens due to the ability in the current municipal capital market to achieve favorable interest rates through a private (negotiated) sale, the ability to time the market, the ability to negotiate with potential purchasers and the lower costs of issuance typically associated with a private (negotiated) sale and the resulting attractive interest rate, favorable prepayment terms and satisfactory other terms. Therefore, and pursuant to the authority of the Enabling Act, the Charter and the Ordinance, the Bond shall be sold by private (negotiated) sale without advertisement or solicitation of competitive bids to SunTrust Bank (by whatever legal name known, the "Purchaser"), for a price of par, with no payment of accrued interest.

(b) The Bond shall be sold for investment purposes only and not for resale to the general public. Accordingly, as a condition to delivery of the Bond and prior to the issuance of the Bond, the Purchaser shall furnish to the City a certificate acceptable to bond counsel to the City generally to the effect that (i) the Purchaser has such knowledge and experience in financial and business matters, including purchase and ownership of taxable municipal obligations, that it is capable of evaluating the risks and merits of the investment represented by the purchase of the Bond; (ii) the Purchaser has made its own independent and satisfactory inquiry of the financial condition of the City, including inquiry into financial statements and other information relating to the financial condition of the City to which a reasonable investor would attach significance in making investment decisions, and of any other matters deemed to be relevant to a reasonably informed decision to purchase the Bond; (iii) the Purchaser has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the City and the Bond, all so that as a reasonable investor the Purchaser has been able to make a reasonably informed decision to purchase the Bond; (iv) the Purchaser is purchasing the Bond for investment purposes only (and not as an "underwriter" or "Participating Underwriter" as defined in Securities and Exchange Commission Rule 15c2-12, as replaced, supplemented or amended) and is not purchasing for more than one account or with a view to distributing the Bond; (v) if the Bond is subsequently sold, transferred or disposed of, such sale, transfer or disposition will be made only in compliance with federal and state securities laws and any other applicable laws; and (vi) the Purchaser understands and acknowledges that (A) the Bond (1) is not being registered under the Securities Act of 1933, as amended, and is not being registered or otherwise qualified for sale under the "blue sky" laws and regulations of any state, (2) will not be listed on any stock or other securities exchange, (3) will carry no rating from any rating service, and (4) will not be readily marketable, and (B) no disclosure document is being prepared in connection with the issuance and sale of the Bond.

SECTION 10. BE IT FURTHER RESOLVED that the Bond shall be suitably prepared in definitive form, executed and delivered to the Purchaser on such date as shall be mutually acceptable to the Director of Internal Services, the Purchaser and bond counsel to the City,

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contemporaneously with the receipt of the purchase price for the Bond; provided that, the Bond shall not be delivered on a date later than December 5, 2012 without the prior written consent of the Purchaser, which consent shall be granted or withheld in the sole discretion of the Purchaser. The Mayor and/or the City Administrator, on behalf of the City, are hereby authorized and empowered to negotiate, execute and deliver any commitment letter or proposal required by the Purchaser, and 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 issuance, sale and delivery of the Bond to the Purchaser, including the payment to the Purchaser of the \$6,000.00 closing fee specified in the Purchaser's proposal (or such lesser amount as the Purchaser may require), and to negotiate, execute and deliver all documents, certificates and instruments necessary or appropriate in connection therewith, including reflecting any provisions specified by the Purchaser in its proposal.

SECTION 11. BE IT FURTHER RESOLVED that (a) the Director of Internal Services or, in his absence, one of the Assistant Directors of Internal Services, is hereby designated and authorized to receive payment on behalf of the City of the proceeds of the sale of the Bond contemporaneously with the delivery of the Bond. Any portion of the purchase price for the Bond may be disbursed by the Purchaser directly to third parties, including, without limitation, any person entitled to the payment of costs of issuance pertaining to the Bond, at the direction of the appropriate City official or officials, and any such disbursement to third parties at the direction of the appropriate City official or officials shall be deemed to constitute receipt of the proceeds of the Bond for purposes of this Section 11. Any proceeds of the Bond physically received by the City shall be deposited in the proper account or accounts of the City, may be invested within the limits prescribed by Maryland and federal law, and shall be used and applied exclusively to pay or reimburse the costs of the Projects as described herein. If the proceeds received from the sale of the Bond exceed the amount needed for the public purposes hereinabove described, the amount of such unexpended excess shall be set apart in a separate fund or funds and applied to pay subsequent debt service payments on the Bond or to prepay the Bond, unless a supplemental ordinance or resolution, as applicable, is passed by the Council to provide for the expenditure of such unexpended excess for some other valid purpose authorized by the Enabling Act, the Charter or other applicable law. Investment earnings on proceeds of the Bond, if any, held by the City may be applied to pay costs of the Projects, to pay subsequent debt service payments on the Bond or to prepay the Bond, or shall be transferred to the General Fund and applied to general City purposes, unless a supplemental ordinance or resolution, as applicable, is passed by the Council to provide for the expenditure of such earnings for some other valid purpose authorized by the Enabling Act, the Charter or other applicable law. Nothing in this Resolution shall be construed to authorize the expenditure of any moneys except for a proper public purpose.

SECTION 12. BE IT FURTHER RESOLVED that (a) that portion of the principal and interest on the Bond allocated to the costs of the Project identified as (i) "Caustic Chemical Feed Building" in Section 2(a) of this Resolution will be payable in the first instance from water system revenues (including moneys received for use of or connection to such system) to the extent such revenues are available for such purpose, and (ii) "Wastewater Treatment Plant Upgrade" in Section 2(a) of this Resolution will be payable in the first instance from sewer system revenues (including moneys received for use of or connection to such system) to the extent such revenues are available

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for such purpose. Notwithstanding the foregoing sentence, for the purpose of paying the principal of and interest on the Bond when due, the City shall levy or cause to be levied in all fiscal years in which the Bond is outstanding, upon all real and tangible personal property within its corporate limits subject to assessment for unlimited municipal taxation, ad valorem taxes in rate and amount sufficient to provide for the prompt payment of the principal of and interest on the Bond due in each such fiscal year, provided that, to the extent of any funds received or receivable as described in the first sentence of this Section 12(a) in any fiscal year, the taxes hereby required to be levied may be reduced proportionately. If the proceeds from the taxes so levied in any such fiscal year are inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up such 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 Bond as and when they become due and 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 Bond. The City hereby covenants and agrees with the registered owner, from time to time, of the Bond to levy and collect the taxes hereinabove described and to take any further action that lawfully may be appropriate from time to time during the period that the Bond remains outstanding and unpaid to provide the funds necessary to pay promptly the principal thereof and the interest due thereon.

(c) The foregoing provisions of this Section 12 shall not be construed so as to prohibit the City from paying the principal of and interest on any portion of the Bond 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 Bond 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, paid or are otherwise available to the City for the purpose of assisting the City in accomplishing the types of projects which the Bond is issued to finance or reimburse, 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.

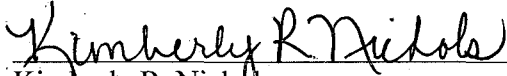
SECTION 13. BE IT FURTHER RESOLVED that this Resolution shall become effective upon adoption by the Council and approval by the Mayor. Pursuant to Charter Section SC7-46A, this Resolution may not be petitioned to referendum.

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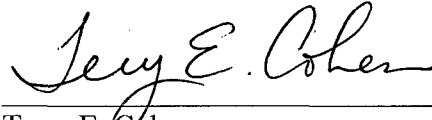
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THIS RESOLUTION was introduced and duly adopted at a meeting of the Council of the City of Salisbury held on the 26<sup>th</sup> day of November, 2012.

ATTEST:



Kimberly R. Nichols  
CITY CLERK



Terry E. Cohen  
PRESIDENT, City Council

Approved by me this 25<sup>th</sup> day of November, 2012.



James Ireton, Jr.  
MAYOR, City of Salisbury

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EXHIBIT A

(Form of Bond)

No. R-\_\_\_ UNITED STATES OF AMERICA  
STATE OF MARYLAND \$ \_\_\_\_\_  
CITY OF SALISBURY

TAXBLE PUBLIC IMPROVEMENTS BOND OF 2012

<u>Maturity Date</u>	<u>Interest Rate</u>	<u>Original Issue Date</u>
July 1, 2028	_____%	_____, 2012

Registered Owner:

Principal Sum: DOLLARS

IT CANNOT BE DETERMINED FROM THE FACE OF THIS BOND WHETHER ALL OR ANY PORTION OF THE PRINCIPAL AMOUNT HAS BEEN PAID OR PREPAID. EACH PAYMENT OR PREPAYMENT OF A PRINCIPAL INSTALLMENT SHALL BE NOTED BY THE REGISTERED OWNER OF THIS BOND ON ITS BOOKS AND RECORDS, WHICH NOTATION WHEN MADE WILL BE PRESUMED CORRECT ABSENT MANIFEST ERROR. THE REGISTERED OWNER'S FAILURE TO MAKE APPROPRIATE NOTATION OF ANY SUCH PAYMENT OR PREPAYMENT SHALL NOT LIMIT OR OTHERWISE AFFECT THE OBLIGATIONS OF THE CITY HEREUNDER AND SHALL NOT AFFECT THE VALID PAYMENT AND DISCHARGE OF SUCH OBLIGATION EFFECTED BY SUCH PAYMENT OR PREPAYMENT.

City of Salisbury, a municipal corporation organized and existing under the Constitution and laws of the State of Maryland (the "City"), hereby acknowledges itself indebted for value received and promises to pay to the registered owner shown above, or registered assignee or legal representative, the Principal Sum shown above, payable in sixteen (16) annual serial installments on

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July 1, commencing July 1, 2013, plus interest on the unpaid balance as set forth herein, subject to prior prepayment as hereinafter provided, as follows:

<u>Date</u>	<u>Principal Installment</u>	<u>Date</u>	<u>Principal Installment</u>
July 1, 2013	\$284,000	July 1, 2021	\$381,000
July 1, 2014	309,000	July 1, 2022	393,000
July 1, 2015	318,000	July 1, 2023	405,000
July 1, 2016	328,000	July 1, 2024	417,000
July 1, 2017	338,000	July 1, 2025	430,000
July 1, 2018	348,000	July 1, 2026	443,000
July 1, 2019	359,000	July 1, 2027	457,000
July 1, 2020	370,000	July 1, 2028	470,000

This bond shall bear interest on the unpaid outstanding principal balance from the date of its delivery at an annual rate which is equal to three and one hundredths percent (3.01%) per annum.

Interest on this bond shall be payable on January 1 and July 1 in each year until maturity or prior prepayment in full, commencing on July 1, 2013. This bond shall bear interest from the most recent date to which interest has been paid or, if no interest has been paid, from the date of its delivery.

Interest shall be computed on the basis of a 360-day year comprised of 12 30-day months. For purposes of calculating the interest due on this bond, unpaid outstanding principal on any date shall be an amount equal to the original principal amount of this bond, less any principal installment paid as described above, and less any principal prepaid as described below. The registered owner of this bond shall provide written notice to the Director of Internal Services of the City (the "Director of Internal Services") of the interest and any principal due on this bond on each interest payment date at least ten (10) days prior to such interest payment date, or such fewer number of days as is acceptable to the Director of Internal Services, but failure to provide such notice shall not affect the amount of, or the City's obligation to pay, principal or interest due on this bond.

Principal of and interest on this bond shall be payable in lawful money of the United States of America. The principal of this bond, at maturity or upon prior prepayment in full, shall be payable by check or draft at the office of the Director of Internal Services in Salisbury, Maryland, unless the Director of Internal Services and the registered owner agree on a different place or manner of payment. Principal of this bond, prior to maturity or prior prepayment in full, and interest on this bond will be payable by check or draft mailed to the registered owner at the address designated by the registered owner in writing to the Director of Internal Services, unless the Director of Internal Services and the registered owner hereof agree on a different manner of payment. If a principal payment date or interest payment date falls on a Saturday, Sunday or a

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day on which the City, banks in the State of Maryland and/or banks in the state in which the registered owner of this bond is located are not required to be open, payment may be made on the next succeeding day that is not a Saturday, Sunday or a day on which the City, banks in the State of Maryland and/or banks in the state in which the registered owner of this bond is located are not required to be open, and no interest shall accrue on the scheduled amount owed for the intervening period.

This bond is the duly authorized bond of the City, aggregating \$ \_\_\_\_\_ .00 in principal amount, dated the date of its delivery and designated "City of Salisbury Taxable Public Improvements Bond of 2012". This bond is issued pursuant to and in full conformity with the provisions of Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland, as replaced, supplemented or amended, 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, and by virtue of due proceedings had and taken by the Council of the City (the "Council"), particularly Ordinance No. 2223, which was passed by the Council on October 22, 2012, approved by the Mayor of the City (the "Mayor") on October 23, 2012 and became effective on October 23, 2012 (the "Ordinance"), and Resolution No. \_\_\_\_\_, which was adopted by the Council on \_\_\_\_\_, 2012, approved by the Mayor on \_\_\_\_\_, 2012 and became effective on \_\_\_\_\_, 2012 (the "Resolution").

This bond is transferable only upon the books kept for that purpose at the office of the Director of Internal Services, by the registered owner hereof in person, or by his duly authorized attorney, upon surrender hereof, together with (i) a written instrument of transfer in the form attached hereto and satisfactory to the Director of Internal Services and duly executed by the registered owner or his duly authorized attorney and (ii) a written covenant and agreement substantially in substance as described in Section 9(b) of the Resolution duly executed by the transferee.

This bond may be transferred or exchanged at the office of the Director of Internal Services. Upon any such transfer or exchange, the City shall issue a new registered bond of the same series in denomination equal to the unpaid principal amount of the bond surrendered, and with the same maturity date, principal installment dates and principal installment payment amounts (or then-remaining installment payment dates and amounts, as applicable) and bearing interest at the same rate. In each case, the Director of Internal Services may require payment by the registered owner of this bond requesting transfer or exchange hereof of any tax, fee or other governmental charge, shipping charges and insurance that may be required to be paid with respect to such transfer or exchange, but otherwise no charge shall be made to the registered owner hereof for such transfer or exchange.

The City may deem and treat the party in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

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This bond is subject to prepayment in whole or in part at any time, at the option of the City, at a prepayment price of the par amount of this bond outstanding to be prepaid, plus accrued interest on the principal amount being prepaid to the date fixed for prepayment, without premium or penalty. Notice of optional prepayment shall be given by the City at least fifteen (15) days prior to the date fixed for prepayment (or such fewer number of days as is acceptable to the registered owner of this bond) by mailing or otherwise giving to such registered owner a notice fixing the prepayment date, indicating the principal amount of this bond to be prepaid and, if this bond is to be prepaid in part, the future installments against which such partial prepayment shall be applied. Any such notice may be conditioned upon receipt of funds sufficient to effect such prepayment.

The full faith and credit and unlimited taxing power of City of Salisbury are hereby unconditionally and irrevocably pledged to the payment of the principal of and interest on this bond according to its terms, and the City does hereby covenant and agree to pay punctually the principal of and the interest on this bond, at the dates and in the manner mentioned herein, according to the true intent and meaning hereof.

It is hereby certified and recited that each and every act, condition and thing required to exist, to be done, to have happened or to be performed precedent to and in the issuance of this bond, does exist, has been done, has happened and has been performed in full and strict compliance with the Constitution and laws of the State of Maryland, the Ordinance and the Resolution, and that this bond, together with all other indebtedness of the City, is within every debt and other limit prescribed by the Constitution and laws of the State of Maryland and that due provision has been made for the levy and collection of an annual ad valorem tax or taxes upon all the legally assessable property within the corporate limits of the City in rate and amount sufficient to provide for the payment, when due, of the principal of and interest on this bond.

IN WITNESS WHEREOF, City of Salisbury has caused this bond to be executed in its name by the manual signature of the Mayor and its corporate seal to be affixed hereto, attested by the manual signature of the City Clerk, all as of the 28<sup>th</sup> day of November,



By: Kimberly R. Nichols  
City Clerk

CITY OF SALISBURY

By: [Signature]  
Mayor

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(Form of Instrument of Transfer)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING NUMBER OF ASSIGNEE

\_\_\_\_\_  
\_\_\_\_\_

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS,  
INCLUDING ZIP CODE OF ASSIGNEE)

the within bond and all rights thereunder and does hereby constitute and appoint \_\_\_\_\_

attorney to transfer the within bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_  
Notice: Signatures must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

\_\_\_\_\_  
Notice: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

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# City of Salisbury



MARYLAND

Salisbury



2010

125 NORTH DIVISION STREET  
SALISBURY, MARYLAND 21801  
Tel: 410-548-3190  
Fax: 410-548-3192

KEITH A. CORDREY  
DIRECTOR OF INTERNAL SERVICES

JAMES IRETON, JR.  
MAYOR

JOHN R. PICK  
CITY ADMINISTRATOR

LORÉ L. CHAMBERS  
ASSISTANT CITY ADMINISTRATOR

**To:** John R. Pick, City Administrator  
**From:** Keith Cordrey, Director of Internal Services *KAC*  
**Date:** November 14, 2012  
**Re:** Bond Solicitation Responses and Bid Selection

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On October 25<sup>th</sup> 2012 the city entered into an agreement with Davenport & Company LLC to issue an RFP for a General Obligation Bond in the amount of \$ 6,050,000 (for Caustic Chemical Feed Building and Wastewater Treatment Plant Upgrade). On Thursday November 8<sup>th</sup> the City of Salisbury received responses from the RFP issued by Davenport. Two banks responded to the solicitation. Please see the attached sheet titled "6.05 Million Taxable General Obligation Bond, Series 2012" that summarizes the interest rates and terms and conditions from each bank. SunTrust supplied the city with two options. Both options provided by SunTrust Bank are superior to the Bank of America rate of 4.04%. Option 1 provided a 15.5 year fixed rate bond with a 3.01% interest rate. Option 2 provided a 20.5 year bond with a 2.97% interest rate and a 10 year put option. We recommend council approve our recommendation to select Option 2 from SunTrust for the following reasons:

- The estimated total of debt service payments for Option 2 is \$ 509,000 less than the Option 1 (\$ 7,639,000 vs. \$8,148,000).
- The 10 year Put Option in Option 1 brings more risk than the benefits included in Option 1 (i.e. longer amortization period and .04 % rate advantage).

The level debt service will cost the City approximately \$477K per year in principal and interest payments. Please find attached the resolution that will set all terms and conditions for this General Obligation bond and a document with bullet points prepared by Lindsey A. Rader, our bond counsel. If you have any further questions, please let me know.

**City of Salisbury, Maryland**  
**\$6.05 Million Taxable General Obligation Bond, Series 2012**  
**Summary of Proposals Received**

	Bank of America	SunTrust Bank
<b>Taxable Interest Rates and Terms:</b>	15.5 Year Fixed Rate: 4.04% (Bank has right to change rate if City issues less than \$6.05 million.)	<b>Option One:</b> 20.5 Year Amortization/10 Year Put: 2.97% (2.92%)* <b>Option Two:</b> 15.5 Year Fixed Rate: 3.01% (2.96%)*
<b>Final Maturity Date:</b>	7/1/2028	<b>Option One:</b> 7/1/2033 <b>Option Two:</b> 7/1/2028
<b>Estimated Annual Debt Service:</b>	\$515,000	<b>Option One:</b> \$388,000 (\$386,000)* <b>Option Two:</b> \$477,000 (\$476,000)*
<b>Estimated Total Debt Service:</b>	\$8,237,000	<b>Option One:</b> \$8,148,000 (\$8,110,000)* <b>Option Two:</b> \$7,639,000 (\$7,611,000)*
<b>Optional Redemption:</b>	Prepayment in whole only on the first business day of each month beginning 12/1/2022 without penalty.	Prepayable in whole or in part at any time without penalty.
<b>Security:</b>	General Obligation Pledge of the City.	General Obligation Pledge of the City.
<b>Accept Proposal by:</b>	11/14/2012 at noon.	N/A
<b>Rate Held Through:</b>	12/7/2012	12/5/2012
<b>Bank Fees / Closing Costs:</b>	Up to \$4,000 Bank Counsel Fee.	\$6,000 Bank Fee.

\*Alternative Rates provided if the City elects to enter into a relationship for Additional Banking Services with SunTrust.

All proposals are subject to the negotiation of mutually satisfactory documentation and final terms between the City and the Bank.

Estimates for Annual and Total Debt Service assume closing on 12/5/2012 and a \$6.05 million par amount. Estimates are rounded to the nearest thousand dollars.

Please note that SunTrust Option One is subject to a Put or Reset and Annual/Total Debt Service amounts are subject to change according to the circumstances of the Put or Reset in Year Ten of debt service (i.e. 7/1/2022).

Thursday, November 8, 2012  
 Prepared by Davenport & Company LLC

## Keith Cordrey

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**From:** Lindsey A. Rader <lrader@fblaw.com>  
**Sent:** Sunday, November 11, 2012 12:29 PM  
**To:** Keith Cordrey; Gerri Moore  
**Cc:** John Pick  
**Subject:** Bullet Points Summary of Taxable Resolution

Set forth below is a bullet points summary of the bond resolution to be introduced and adopted on 11/26. Please feel free to share this with the Mayor and Council.

Please note: In that we have tentatively scheduled closing for 11/30, please have the Mayor approve the Resolution the night it is passed, if possible, or the next day.

### BULLET POINTS SUMMARY OF 2012 SALISBURY TAXABLE GO BOND RESOLUTION

- Recitals indicate that pursuant to Ordinance No. 2223, the City authorized the issuance and sale from time to time of one or more series of general obligation bonds in an aggregate principal amount not to exceed \$6,050,000 in order to finance, reimburse or refinance costs of the projects identified in such Ordinance as “Caustic Chemical Feed Building”, “Wastewater Treatment Plant Upgrade” and costs of issuance.
- Recitals indicate that the City is ready to proceed with bond funding the two projects identified in Ordinance No. 2223, in the maximum amounts identified in such Ordinance, plus costs of issuance, and Davenport & Company LLC, financial advisor to the City, recommended that current interest rate environment provides an opportunity to sell the authorized bonds by private placement with a bank or financial institution, and Davenport conducted a request for proposals on behalf of the City. Two banks submitted proposals in response to the RFP.
- Section 2 – The City determines to borrow money to finance or reimburse costs of the projects identified therein in the maximum principal amount set forth opposite each project, and proceeds are appropriated for such purposes, provided that the City, without notice or consent to the registered owner of the Bond identified in Section 3, may reallocate the maximum principal amount of Bond proceeds to be spent on each project in accordance with City budgetary procedures or applicable law.
- Section 3 – The “City of Salisbury Taxable Public Improvements Bond of 2012” (the “Bond”) will be issued in the principal amount of \$6,050,000 or such lesser amount as the Mayor, with the advice of the City Administrator, the Director of Internal Services and the financial advisor, shall determine, in order to fund costs of the projects, including costs of issuance. The Mayor may reduce the final principal amount of the Bond prior to delivery if costs of issuance will be less than the \$50,000.00 provided for in Section 2 or if the City determines it does not need the maximum authorized amount for any project.
- Section 4(a) – The Bond will be issued as a single general obligation installment bond with principal due each July 1 in the years 2013-2028, inclusive. The Bond will be payable pursuant to the principal amortization schedule set forth in Section 4(a) unless the Mayor, with the advice of the City Administrator, the Director of Internal Services and the financial advisor, determines to change the presumed delivery date of the Bond, costs of issuance will be less than \$50,000.00, it is determined that the maximum authorized amount is not needed for any project or typographical or calculation errors need to be corrected, provided that, revised debt service must be structured on a roughly level debt service basis (annualized).
- Section 4(b) – Interest rate on the Bond will be 3.01% per annum.

- Section 4(c) – Interest on the Bond will be payable semiannually on January 1 and July 1, commencing July 1, 2013.
- Rest of Section 4 – Standard provisions re: registered owner of the Bond giving notice of payments when due (though failure to give same does not allow the City to excuse non-payment), payment dates not falling on business days, and method of payment.
- Section 5 – Bond can be prepaid in whole or in part at any time at option of the City, at par plus accrued interest, with no premium or penalty, in order of maturity selected by the City. The City to give 15 days (or such fewer number of days as are acceptable to the registered owner) notice of prepayment.
- Sections 6-8 – Standard provisions for execution, transfer and approval of final form of the Bond.
- Section 9 – Council ratifies and confirms the circulation of the RFP to banks and subsequent negotiations with respondents, and determines to sell the Bond to SunTrust Bank by private (negotiated) sale without advertisement or solicitation of competitive bids (even though Davenport circulated an RFP, that does not constitute a “public sale” for MD state law purposes), for a price of par, with no payment of accrued interest. The Bond to be sold for investment purposes only and SunTrust Bank required to deliver a certification to bond counsel at closing.
- Section 10 - The Bond to be prepared and delivered on date acceptable to the Director of Internal Services, SunTrust Bank (identified as the Purchaser) and bond counsel, but no later than December 5, 2012 without consent of SunTrust Bank, and appropriate officials authorized to take all action necessary to close the Bond. The City to pay SunTrust Bank a closing fee of \$6,000 or such lesser amount as SunTrust may require (\$6,000 specified in SunTrust’s proposal).
- Section 11 – The Director of Internal Services (or an Assistant Director) authorized to receive Bond proceeds. Appropriate official or officials authorized to direct application of Bond proceeds and provide for any investment. Unless the Council determines otherwise by ordinance or resolution, as applicable, (i) excess proceeds will be applied to pay debt service on the Bond or prepay the Bond and (ii) investment earnings will be applied to pay Project costs, debt service on the Bond, prepay the Bond or be transferred to the General Fund and applied for City purposes. (Note: If the City later wishes to apply Bond proceeds to other projects not identified in the Ordinance and the Resolution, we will need to supplement both to authorize such application; we have done that with respect to other bond issues when the City achieved unexpected cost savings or a project was delayed or discontinued.)
- Section 12 – Debt service on the Bond allocated to the projects is payable in the first instance from water system revenues or sewer system revenues, as applicable. The City pledges full faith and credit and unlimited taxing power to payment of the Bond and agrees to levy taxes sufficient to make such payments, provided that if other funds are available to make such payments, the taxes required to be levied shall be reduced proportionately.
- Section 13 – Resolution shall be effective upon adoption by the Council and approval by the Mayor.
- Exhibit A – Form of Bond, which the Mayor authorized to complete/modify before delivering pursuant to Sections 6 and 8 of the Resolution.

Note: The Bond is being issued on a taxable basis because the City wants to issue the Bond in CY 2012 and the principal amount of the Bond, when added to tax-exempt obligations previously issued by the City in this calendar year, would cause the City to exceed the \$10.0M tax-exempt “bank-qualified” limit for CY 2012. The tax-exempt general obligation bond issued in May was designated as a “bank-qualified” obligation and in order to preserve such designation the City is issuing this Bond on a taxable basis.

Regards, Lindsey

Lindsey A. Rader, Esquire  
 Funk & Bolton, P.A.  
 Twelfth Floor  
 36 S. Charles Street  
 Baltimore, Maryland 21201