

RESOLUTION NO. 2631

A RESOLUTION OF THE CITY OF SALISBURY AUTHORIZING THE MAYOR TO SIGN THE GRANT AGREEMENT AND ACCEPT A GRANT OF \$32,000.00 FROM THE MARYLAND DEPARTMENT OF TRANSPORTATION (MDOT) MARYLAND BIKEWAYS PROGRAM FOR THE DESIGN OF A BIKE ROUTE ON WEST MAIN STREET, FITZWATER STREET AND PARSONS ROAD.

WHEREAS, the Maryland Department of Transportation has a Maryland Bikeways Program for making pedestrian-and-bicycle-facilities improvements; and

WHEREAS, the Maryland Department of Transportation Maryland Bikeways Program provides grant funds to support and expedite projects that improve bicycle transportation in the State; and

WHEREAS, Maryland Department of Transportation and the City of Salisbury have been working together to improve bicycle connectivity throughout the City of Salisbury; and

WHEREAS, the City of Salisbury desires to design a bike route along West Main Street, Fitzwater Street and Parsons Road; and

WHEREAS, Ordinance No. 2341 created the bike route along West Main Street, Fitzwater Street and Parsons Road; and

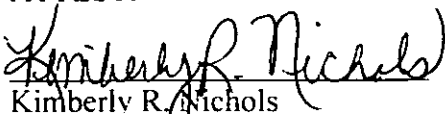
WHEREAS, Maryland Bikeways Program has awarded a grant in the amount of \$32,000.00 to provide for the design of the bike route along West Main Street, Fitzwater Street and Parsons Road; and

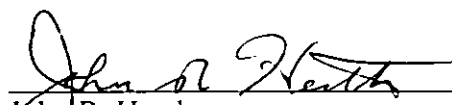
WHEREAS, the Project will enhance bicycle safety and access to the Maryland Blue Crab Scenic Byway and will improve bicycle circulation in Salisbury.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Salisbury, Maryland does hereby authorize the Mayor to sign the attached Grant Agreement dated May 9, 2016 accepting the project term and definition of matching funds, for the betterment of the City and its residents, and accepts the grant of \$32,000.00 from Maryland Bikeways Program to design the bike route along West Main Street, Fitzwater Street and Parsons Road.

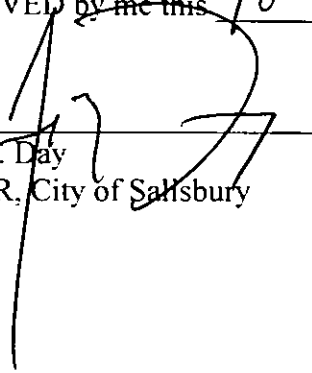
THE ABOVE RESOLUTION was introduced and read and passed at the regular meeting of the Council of the City of Salisbury held on this 9 day of May, 2016 and is to become effective immediately upon adoption.

ATTEST:

  
Kimberly R. Nichols  
CITY CLERK

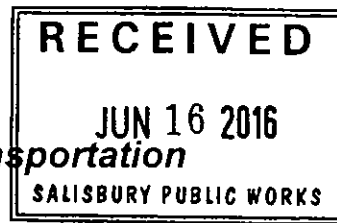
  
John R. Heath  
PRESIDENT, City Council

APPROVED by me this 10<sup>th</sup> day of May, 2016

  
\_\_\_\_\_  
Jacob R. Day  
MAYOR, City of Salisbury

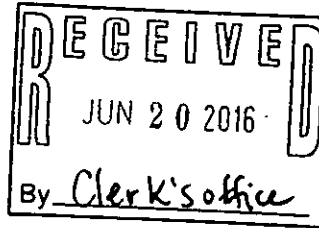


**Maryland Department of Transportation**  
The Secretary's Office



Larry Hogan  
Governor  
Boyd K. Rutherford  
Lt. Governor  
Pete K. Rahn  
Secretary

June 9, 2016



Ms. Amanda Pollack  
Deputy Director  
Department of Public Works  
125 N Division Street, Room 202  
Salisbury MD 21801

Dear Ms. Pollack:

Enclosed and for your records is a fully executed original of the FY 2016 Maryland Bikeways Program Grant Agreement for the Fitzwater Street Project in Salisbury, Maryland. The remaining originals will be filed in the Office of Planning and Capital Programming and the Office of Attorney General at Maryland Department of Transportation (MDOT). We look forward to working with you in the coming months on the project.

We also recommend that you review the Maryland Bikeways Project Guidelines found on the Cycle Maryland website: <http://www.cycle.maryland.gov>. Please contact me at 410.865.1281 or via email at [oolugbenle@mdot.state.md.us](mailto:oolugbenle@mdot.state.md.us) with any questions. I will be pleased to assist you.

Sincerely,

Oluseyi Olugbenle  
Office of Planning and Capital Programming

Enclosure

cc: Mr. Kenneth B. Hulsey, Assistant Attorney General, Office of Attorney General, MDOT

**GRANT AGREEMENT**

**BY AND BETWEEN**

**THE MARYLAND DEPARTMENT OF TRANSPORTATION**

**AND**

**THE CITY OF SALISBURY, MARYLAND**

THIS GRANT AGREEMENT executed in triplicate and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 201\_, by and between the Maryland Department of Transportation (“Department”) and the City of Salisbury, Maryland (“Grantee”).

WITNESSETH:

WHEREAS, the Department has programmed in the FY 2015-2020 Consolidated Transportation Program State Report on Transportation a total of Fifteen Million Three-Hundred Sixty-Nine Thousand Dollars (\$15,369,000) for the Maryland Bikeways Program (“Program”);

WHEREAS, the Department budgeted within the Program Thirty-Two Thousand Dollars (\$32,000) to obtain professional consulting services to prepare construction plans for adding signs and roadway striping for an improved bike route on West Main Street, Fitzwater Street, and Parsons Road in the City of Salisbury, Maryland (the “Project”);

WHEREAS, pursuant to Section 2-602 of the Transportation Article of the Annotated Code of Maryland, it is in the public interest for the State of Maryland to include enhanced transportation facilities for pedestrians and bicycle riders as an essential component of the State’s transportation system;

WHEREAS, the Maryland Bikeways Program was establish and approved by the General Assembly to provide state transportation funding to support and expedite projects that improve bicycle transportation in the State;

WHEREAS, the Grantee has committed Eight Thousand Dollars (\$8,000) in Grantee matching funds;

WHEREAS, the Project will enhance bicyclist safety and access for both residents and visitors throughout Salisbury and connect to major commercial and employment clusters, recreational amenities, and residential neighborhoods;

WHEREAS, the Project is a valuable component of Maryland’s transportation system;

WHEREAS, the Department has supported similar projects in various locations in the State;

WHEREAS, the Department and the Grantee agree that the Project will benefit the parties to this Agreement and will promote the safety, health, and general welfare of the citizens of the State of Maryland;

WHEREAS, Section 2-103(i) of the Transportation Article of the Annotated Code of Maryland (2015 Replacement Volume), authorizes the Secretary of Transportation, to the extent permitted by the State budget, to make grants-in-aid to any person, including political subdivisions of the State of Maryland, for any transportation related purpose;

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The above recitals are re-affirmed and incorporated herein by reference.
2. The Department hereby grants to the Grantee a sum not to exceed Thirty-Two Thousand Dollars (\$32,000) ("Grant") to be used by the Grantee for the completion of the Project. The Grantee shall be responsible for all work in connection with the Project, including the following:
  - a. Completing design work for the Project;
  - b. Obtaining public input on the Project;
  - c. Preparation of quarterly status reports and final reports, as requested by the Department; and
  - d. Monitoring and supervising the compliance of all provisions in this Agreement.
3. Notwithstanding anything to the contrary herein, the Grantee's matching funds contribution may be reduced, provided that the Grantee's share of the costs may not be reduced below 20% of the Project cost.
4. The Project shall be consistent with relevant design standards and guidelines, including 2012 American Association of State Highway and Transportation Officials (AASHTO) Bicycle Design Guidelines, the Association of Pedestrian and Bicycle Professionals Bicycle Parking Guidelines, the Maryland Manual of Uniform Traffic Control Devices, and the Access Board Advance Notice of Proposed Rulemaking (ANPRM) on Accessibility Guideline for Shared Use Paths.
5. The Grantee shall engage a professional engineer, registered in the State of Maryland, for design services on the Project. The Grantee shall provide to the Department draft design plans for review and comment and final design plans for the Project record. Notwithstanding anything to the contrary herein, the Grantee shall have final rights of approval.
6. The Grantee shall require all contractors and subcontractors, prior to commencement of work on the Project, to secure and keep in force during the term of this

Agreement, from insurance companies, government self-insurance pools or government self-retention funds, authorized to do business in Maryland, the following insurance coverages:

- a. commercial general liability, including premises or operations, contractual, and products or completed operations coverages (if applicable), with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence;
- b. automobile liability, including Owned (if any), Hired, and Non-Owned automobiles, with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence;
- c. workers compensation coverage meeting all statutory requirements.

This insurance may be in policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and must be placed with insurers rated "A-" or better by A.M. Best Company, Inc., provided any excess policy follows form for coverage. The Grantee shall have the right to self-insure.

The Department and its agencies, officers, and employees shall be endorsed on the commercial general liability policies, including any excess policies (to the extent applicable), as an additional insured. Coverage will be primary and noncontributory with any other insurance and self-insurance. There will be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice to the Department. Certificates of insurance shall be provided to the Department upon request. All endorsements shall be provided as soon as practicable. Failure to provide insurance as required in this Agreement is a material breach of contract entitling the Department to terminate this Agreement.

7. The Grant represents the maximum financial liability of the Department under this Agreement subject to, limited by and contingent upon the appropriation and availability of funds, as well as the types of liabilities, damage caps, and notice requirements stated in the Maryland Torts Claims Act, currently found at Maryland Annotated Code, State Government, Section 12-101 ("MTCA").

8. The Grantee may use funds only for costs incurred in connection with the Project. Payment of the Grant by the Department shall be made on a reimbursable basis upon the Grantee's submission of invoices for such payment, subject to the following conditions.

All invoices for payment shall include:

- (a) actual expenditures incurred by the Grantee in connection with the Project;
- (b) a certification by the Grantee that all costs charged to the Project are in connection therewith and supported by properly executed records, vouchers, invoices or contracts evidencing the nature and propriety of the charges.

Invoices/requests for reimbursement will be submitted not more frequently than once per month (30 days). Invoices/requests for reimbursement will be reviewed by MDOT to determine (a) that the indicated costs are allowable hereunder and (b) that the invoiced work contributes directly to the accomplishment of the Project. Failure to meet these conditions will result in disallowed costs that will be deducted from the requested reimbursement amount. Payment shall be made by the Department to the Grantee within thirty (30) days of the Department's receipt and approval of the invoice and accompanying certifications. The final invoice may not be paid until the Final Report is submitted. No Project costs incurred prior to the execution of this Agreement will be reimbursed.

9. The Grantee shall comply with all applicable Federal, State and local laws in expending Grant funds and in carrying out the Project, including compliance with the Americans with Disabilities Act of 1990, particularly as it relates to public meetings held in connection with the Project.

10. The term of this Agreement shall commence upon the date first set forth above and shall terminate when all payments of the Grant have been made or on September 29, 2017, whichever is sooner. At its discretion, the Department may elect to extend the term of the Grant by up to six months in consideration of unforeseen project delays.

11. The Department reserves the right to suspend or terminate all or part of the financial assistance herein provided and to terminate this Agreement, in whole or in part, if:

- (a) the Grantee breaches or fails to fulfill any of the terms of this Agreement;
- (b) funds are not appropriated by the General Assembly of Maryland to fund this Grant.

The Grantee acknowledges and agrees that funding under this Agreement is expressly dependent upon the availability to the Department of funds appropriated by the General Assembly and that, except as otherwise provided for herein, the Department shall not be liable for any breach of this Agreement due to the absence of an appropriation. Termination of this Agreement will not invalidate obligations properly incurred by the Grantee prior to the date of termination if such obligations are unable to be canceled. If, upon termination of this Agreement, it is determined by the Department that funds are due to the Department, the Grantee shall promptly remit such amount to the Department within forty-five (45) days following written notification to the Grantee from the Department. The Grantee's agreement to remit any excess Grant funds to the Department shall survive the termination of this Agreement.

12. The Grantee shall maintain separate and complete accounting records which are consistent with generally accepted accounting procedures and accurately reflect all income and expenditures of Grant funds for the Project. Grantee accounting records shall be maintained for a period of three (3) years after the termination of this Agreement. The records of the Grantee must be in sufficient detail to determine the nature of the costs incurred and/or expenditures made by the Grantee for the Project.

13. The Department reserves the right to perform interim and final audits of the Grant provided for under this Agreement. Any final audit shall commence within three (3) years of the

expiration or earlier termination of this Agreement. In connection with any audit undertaken hereunder, the Grantee shall provide access to all records with respect to the Project. Following the completion of any audit undertaken hereunder, the Grantee shall refund to the Department within forty-five (45) days following notification by the Department any Grant payments that are found to be unsupported by acceptable accounting records or not expended in accordance with the terms of this Agreement. The Grantee's covenant to repay any excess Grant payments shall survive the expiration or earlier termination of this Agreement.

14. This Agreement may be modified only by written instrument, executed by the Department and the Grantee.

15. It is understood and agreed that the sole obligation of the Department is the payment to the Grantee the sum of money specified in Section 2 of this Agreement.

16. All payments hereunder by the Department to the Grantee are subject to the budgetary and appropriation requirements of Section 3-216(d)(2) of the Transportation Article of the Annotated Code of Maryland, (2015 Replacement Volume, as amended and supplemented).

17. No right, benefit or advantage inuring to the Grantee under this Agreement may be assigned and no burden imposed on the Grantee hereunder may be delegated or assigned without the prior written approval of the Department.

18. The parties hereby agree that this Agreement shall be construed in accordance with the law of the State of Maryland.

19. The Department and the Grantee certify that they prohibit, and covenant that they will continue to prohibit, discrimination on the basis of:

- (a) age, ancestry, color, creed, marital status, national origin, race or religious or political affiliation, belief or opinion, or sexual orientation;
- (b) sex or age, except when age or sex constitutes a bona fide occupational qualification; or
- (c) the physical or mental disability of a qualified individual with a disability.

Upon the request of the other party, the Department and the Grantee will submit to the other party information relating to its operating policies and procedures with regard to age, ancestry, color, creed, marital status, mental or physical disability, national origin, race, religious or political affiliation, belief or opinion or sex or sexual orientation.

20. The Department and the Grantee shall comply with the State's policy concerning drug and alcohol free workplaces, as set forth in Executive Order 01.01.1989.18 and COMAR 21.11.08, and must remain in compliance throughout the term of this Agreement.

21. It is specifically agreed between the Department and the Grantee that it is not intended by any of the provisions of this Agreement to create in any public entity, or any



member thereof, or in any private entity third party beneficiary status in connection with the performance of the obligations herein.

22. If any provisions of this Agreement is held to be illegal, invalid or unenforceable by a court of competent jurisdiction:

- (a) such provision shall be fully severable;
- (b) this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and
- (c) the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement.

23. This Agreement may be executed in a number of identical counterparts, each of which shall constitute an original and all of which shall constitute, collectively, one agreement.

24. This Agreement shall inure to and be binding upon the parties hereto, their agents, successors and, to the extent an assignment has been approved pursuant to Section 18 of this Agreement, their assigns.

25. Each notice, invoice, demand, request, consent, approval, disapproval, designation or other communications between the parties, to the extent required to be in writing shall be made by United States Mail to the following addressees:

In the case of MDOT:

Ms. Kate Sylvester  
7201 Corporate Center Drive  
P.O. Box 548  
Hanover, MD 21076

In the case of the Grantee:

Ms. Amanda H. Pollack, P.E.  
Deputy Director  
City of Salisbury, Department of  
Public Works  
125 N. Division Street, Room 202  
Salisbury, MD 21801

**The next page is the signature page.**

IN WITNESS WHEREOF, the parties here to have executed this Agreement as of the day and year first above written.

WITNESS:

Edward Stone

**MARYLAND DEPARTMENT OF  
TRANSPORTATION**

By: R. Earl Lewis, Jr.  
R. Earl Lewis, Jr.  
Deputy Secretary

Date: 6/7/16

FUNDS AVAILABLE:

David L. Fleming  
David L. Fleming, Chief Financial Officer  
Office of Finance

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

Kenneth Hulsey  
Kenneth Hulsey, Assistant Attorney General  
Maryland Department of Transportation

WITNESS:

Kimberly R. Roberts

**THE CITY OF SALISBURY**

By: [Signature]