

Ordinance No. 2648

AN ORDINANCE OF THE COUNCIL (THE "COUNCIL") OF THE CITY OF SALISBURY AMENDING AND SUPPLEMENTING ORDINANCE NO. 2357, PASSED BY THE COUNCIL ON OCTOBER 12, 2015, APPROVED BY THE MAYOR OF CITY OF SALISBURY (THE "CITY") ON OCTOBER 14, 2015 AND EFFECTIVE ON OCTOBER 14, 2015 ("ORDINANCE NO. 2357"), IN ORDER TO (1) AUTHORIZE AND EMPOWER THE CITY TO USE AND APPLY CERTAIN INVESTMENT EARNINGS ON THE \$4,726,200 CITY OF SALISBURY PUBLIC IMPROVEMENTS BOND OF 2015 ISSUED ON DECEMBER 1, 2015 (THE "2015 BOND"), TO THE PROJECTS IDENTIFIED HEREIN AS "GOB ROOF AND AIR HANDLER REPLACEMENT" AND "WWTP HVAC", AND (2) IDENTIFY SUCH ADDITIONAL PROJECTS AS "PROJECTS" FOR ALL PURPOSES OF ORDINANCE NO. 2357; PROVIDING THAT THIS TITLE IS A FAIR STATEMENT OF THE SUBSTANCE OF THIS ORDINANCE; AUTHORIZING CERTAIN CITY OFFICIALS TO TAKE CERTAIN ACTIONS IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS ORDINANCE; PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE SHALL BE LIBERALLY CONSTRUED; AND OTHERWISE GENERALLY RELATING TO THE USE OF PROCEEDS OF THE 2015 BOND.

RECITALS

WHEREAS, City of Salisbury, a municipal corporation of the State of Maryland (the "City"), is authorized and empowered by Sections 19-301 to 19-309, inclusive, of the Local Government Article 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 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 the authority of the Enabling Act, Sections SC7-45 and SC7-46 of the Charter, and Ordinance No. 2357, passed by the Council of the City (the "Council") on October 12, 2015, approved by the Mayor of the City (the "Mayor") on October 14, 2015 and effective on October 14, 2015 ("Ordinance No. 2357"), 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 Seven Hundred Twenty-Six Thousand Two Hundred Dollars (\$4,726,200.00) (the "Authorized Bonds") in order to finance, reimburse or refinance "costs" (as defined in Section 3(b) of Ordinance No. 2357) of the projects identified in Section 3(b) of Ordinance No. 2357 as (1) "Main Street Master Plan", (2) "East Main St Storm Drain", (3) "Beaverdam Creek Tidal Dam Repair", and (4) "24" W in Gordy Rd" (herein collectively referred to as the "Authorized Projects" and referred to as the "Projects" in Ordinance No. 2357) in the maximum principal amounts set forth opposite each such Authorized Project in such Section 3(b); and

WHEREAS, pursuant to the authority of the Enabling Act, Sections SC7-45 and SC7-46 of the Charter, Ordinance No. 2357 and Resolution No. 2569, adopted by the Council on November 23, 2015, approved by the Mayor on November 23, 2015 and effective on November 23, 2015

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(“Resolution No. 2569”), the City determined to borrow money for the public purpose of financing or reimbursing “costs” (as defined in Section 2(b) of Resolution No. 2569, which definition mirrors the definition of “costs” set forth in Section 3(b) of Ordinance No. 2357) of the projects specified in Section 2(a) of Resolution No. 2569 (which included all of the Authorized Projects), and to evidence this borrowing by the issuance and sale of a single series of the Authorized Bonds in the form of a single general obligation installment bond in the maximum principal amount of Four Million Seven Hundred Twenty-Six Thousand Two Hundred Dollars (\$4,726,200.00): and

WHEREAS, pursuant to Resolution No. 2569, such Authorized Bond was issued in the original principal amount of \$4,726,200.00 and was designated as the City of Salisbury Public Improvements Bond of 2015 (the “2015 Bond”); and

WHEREAS, pursuant to the authority of the Enabling Act, Sections SC7-45 and SC7-46 of the Charter, Ordinance No. 2357 and Resolution No. 2569, the City sold and delivered the 2015 Bond to Bank of America, N.A. on December 1, 2015; and

WHEREAS, Section 2 of Resolution No. 2569 provides that proceeds of the 2015 Bond (which is referred to as the “Bond” in Resolution No. 2569) shall be appropriated and allocated to the specified Authorized Projects identified below, subject to the further provisions of such Section 2 (which Authorized Projects are referred to as the “Projects” in Resolution No. 2569):

	<u>Project Name</u>	<u>Maximum Principal Amount</u>
1.	Main Street Master Plan	\$2,240,000.00
2.	East Main St Storm Drain	350,200.00
3.	Beaverdam Creek Tidal Dam Repair	1,136,000.00
4.	24” W in Gordy Rd	<u>1,000,000.00</u>
	TOTAL	<u>\$4,726,200.00</u>

; and

WHEREAS, pursuant to Ordinance No. 2411, passed by the Council on January 23, 2017 and approved by the Mayor on January 24, 2017 (“Ordinance No. 2411”), the City reallocated an aggregate of \$548,117.00 (rounded to the nearest whole dollar) of the principal amount of the Authorized Bonds originally allocated to the Authorized Project identified as “Beaverdam Creek Tidal Dam Repair” to the Authorized Project identified as “Main Street Master Plan”, such that the maximum principal amount of the Authorized Bonds was reallocated as follows:

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	<u>Project Name</u>	<u>Maximum Principal Amount</u>
1.	Main Street Master Plan	\$2,788,117
2.	East Main St Storm Drain	350,200.00
3.	Beaverdam Creek Tidal Dam Repair	587,883.00
4.	24" W in Gordy Rd	<u>1,000,000.00</u>
TOTAL		<u>\$4,726,200.00</u>

; and

WHEREAS, there remains unspent \$203,500.00 of investment earnings on proceeds of the 2015 Bond, and the Council wishes to allocate such unspent investment earnings as provided herein to (i) a project referred to in the City’s fiscal year 2021 budget as originally adopted as “GOB Roof and Air Handler Replacement”, and (ii) a project referred to as “WWTP HVAC” that is expected to be added to the fiscal year 2021 budget by amendment prior to or contemporaneously with the enactment of this Ordinance (collectively, the “2021 Additional Projects”); and

WHEREAS, accordingly, the City desires to expand the list of the Authorized Projects as set forth in Ordinance No. 2357 in order to allow certain investment earnings on proceeds of the 2015 Bond to be applied to costs of the 2021 Additional Projects, and to identify such 2021 Additional Projects as “Projects” for all purposes of Ordinance No. 2357.

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

(a) The Recitals to this Ordinance are incorporated by reference herein and deemed a substantive part of this Ordinance. Capitalized terms used in the Sections of this Ordinance that are not defined therein shall have the meanings given to such terms in the Recitals.

(b) References in this Ordinance to any official by title shall be deemed to refer (i) to any official authorized under the Charter, the code of ordinances of the City (the “City Code”) or other applicable law or authority 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 or interim capacity under the Charter, the City Code or other applicable law or authority, (iii) to any person who serves in a “deputy”, “associate” or “assistant” capacity as such an official, provided that the applicable responsibilities, rights or duties referred to herein have been delegated to such deputy, associate or assistant in accordance with the Charter, the City Code or other applicable law or authority, and/or (iv) to the extent an identified official commonly uses another title not provided for in the Charter or the City Code, the official, however known, who is charged under the Charter, the City Code or other applicable law or authority with the applicable responsibilities, rights or duties referred to herein.

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(c) References in this Ordinance to the “principal amount” of any obligations shall be construed to mean the par amount of such obligations.

(d) References in the Sections of this Ordinance to Ordinance No. 2357 shall be construed to mean Ordinance No. 2357 as the allocation of the principal amount of the Authorized Bonds provided for therein has been reallocated pursuant to Ordinance No. 2411 prior to the introduction of this Ordinance.

SECTION 2. BE IT FURTHER ORDAINED that:

(a) Pursuant to the authority of the Enabling Act, Sections SC7-45 and SC7-46 of the Charter and Ordinance No. 2357, from and after the effective date of this Ordinance, and subject to Sections 2(e) and 7 hereof, Section 3(b) of Ordinance No. 2357 is hereby deleted in its entirety and inserted in place thereof shall be the following:

“(b) With respect to the projects listed below, the word “costs” as used in Section 2 hereof 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, permitting, financial and legal expenses, and related or similar costs; costs of issuance (which may include costs of bond insurance or other credit or liquidity enhancement); interest during construction and for a reasonable period thereafter (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. The total Bond (or BANs, as identified in Section 6 hereof) funds to be appropriated or applied to the costs of such projects (exclusive of any investment earnings that may be applied for such purposes) shall be allocated among the following public purpose projects in the maximum principal amount set forth opposite each, except as otherwise herein provided:

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	<u>Project Name</u>	<u>Maximum Principal Amount</u>
1.	Main Street Master Plan	\$2,788,117
2.	East Main St Storm Drain	350,200
3.	Beaverdam Creek Tidal Dam Repair	587,883
4.	24" W in Gordy Rd	1,000,000
5.	GOB Roof and Air Handler Replacement	0(1)
6.	WWTP HVAC	0(2)
	TOTAL	<u>\$4,726,200</u>

(1) The City intends to allocate certain investment earnings on the Bonds to this project.

(2) The City intends to allocate certain investment earnings on the Bonds to this project.

The projects identified in items 1-6 above are collectively referred to herein as the “Projects”. The Projects described in items 1-6 above are identified by approximately the same names as such Projects are identified in City budget materials. The City, without notice to or the consent of any registered owners of the Bonds (or the registered owners of any of the BANs, as applicable), may reallocate the maximum principal amount of the Bonds (and of any of the BANs, as applicable) to be spent among any of the Projects in compliance with applicable budgetary procedures or applicable law, including, to the extent applicable, by resolution. Further, it is the intention of the Council that proceeds of the Bonds (or of any of the BANs, as applicable) may be spent on any applicable costs (as defined above) relating to the Projects, notwithstanding the descriptive names used for such Projects in the table above, including, without limitation, changes in scopes of the Projects identified above effected through applicable budgetary procedures or applicable law.”

(b) Subject to the further provisions of this subsection (b), the Council hereby appropriates and allocates (i) \$113,500.00 of investment earnings on the 2015 Bond to be applied to costs of the 2021 Additional Project identified in the table in subsection (a) above as “GOB Roof and Air Handler Replacement”, and (ii) \$90,000.00 of investment earnings on the 2015 Bond to be applied to costs of the 2021 Additional Project identified in the table in subsection (a) above as “WWTP HVAC”. Notwithstanding the foregoing sentence, no investment earnings on the 2015 Bond may be applied to costs of the 2021 Additional Project identified in the table in subsection (a) above as “WWTP HVAC” unless and until the applicable budget of the City is amended to include such 2021 Additional Project and funding therein.

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(c) By undertaking the amendments to Section 3(b) of Ordinance No. 2357 provided for in subsection (a) of this Section 2, the City is in effect (i) adding the 2021 Additional Projects identified as items 5-6 in the table set forth in subsection (a) above to the list of projects the costs of which may be financed or reimbursed from the principal amount of the 2015 Bond and investment earnings thereon and (ii) allocating (A) \$113,500.00 of investment earnings on the 2015 Bond to the 2021 Additional Project identified as “GOB Roof and Air Handler Replacement” and (B) \$90,000.00 of investment earnings on the 2015 Bond to the 2021 Additional Project identified as “WWTP HVAC”.

(d) The projects identified in the table set forth in subsection (a) above (which amends Section 3(b) of Ordinance No. 2357) are collectively referred to herein as the “2021 Revised Projects”. Subject to the provisions of subsection (e) below and Section 7 of this Ordinance, from and after the effective date of this Ordinance, all references to the Projects in Ordinance No. 2357 shall be deemed to be references to the 2021 Revised Projects, as identified in this Ordinance. Subject to the provisions of subsection (e) below and Section 7 of this Ordinance, from and after the effective date of this Ordinance, the provisions of this Section 2 shall supersede the provisions of Section 3(b) of Ordinance No. 2357 with respect to the application of the principal amount of the Authorized Bonds (which is the 2015 Bond because the maximum principal amount of “Bonds” authorized by Ordinance No. 2357 was issued as the 2015 Bond).

(e) Notwithstanding the foregoing provisions of this Section 2, 2015 Bond proceeds (including investment earnings thereon) may not be applied to costs of the 2021 Additional Projects unless and until the City adopts a resolution making corresponding amendments to the provisions of Section 2(a) of Resolution No. 2569 to include the 2021 Additional Projects in the list of Projects identified in Resolution No. 2569, thereby allowing proceeds of the 2015 Bond and investment earnings on the 2015 Bond to be applied to costs of the 2021 Additional Projects.

(f) Subject to the provisions of subsections (b) and (e) above and Section 7 of this Ordinance, it is the intention of the Council that any interest income or investment earnings earned on the principal amount of the 2015 Bond (i) prior to the effective date of this Ordinance, to the extent not already spent in accordance with the provisions of the Ordinance No. 2357, Resolution No. 2569 or applicable budgetary procedures or applicable law, and (ii) on and after the effective date of this Ordinance, shall be applied to costs of the any of the 2021 Revised Projects; provided that, any such interest income or investment earnings may be allocated otherwise in accordance with applicable budgetary procedures or applicable law, including, to the extent applicable, by resolution.

SECTION 3. BE IT FURTHER ORDAINED that, subject to the provisions of Sections 2(e) and 7 of this Ordinance, the Mayor, the City Administrator, the Director of Finance and all other appropriate officials and employees of the City, to the extent acting within the scope of their respective authority, are hereby authorized and empowered to take any and all action necessary or appropriate to provide for the application of the proceeds of the 2015 Bond to finance or reimburse costs of the 2021 Revised Projects and to approve, execute and deliver all documents, certificates or instruments

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necessary or appropriate in connection therewith or in connection with the transactions contemplated by this Ordinance, including, without limitation, any amendments, modifications or supplements to any documents, certificates or instruments delivered in connection with the 2015 Bond.

SECTION 4. BE IT FURTHER ORDAINED that from and after the effective date of this Ordinance, Ordinance No. 2357 shall be deemed amended and supplemented as provided herein and all other terms and provisions of Ordinance No. 2357 shall remain in full force and effect.

SECTION 5. BE IT FURTHER ORDAINED that the title of this Ordinance shall be deemed to be, and is, a fair statement of the substance of this Ordinance for posting and all other purposes.

SECTION 6. BE IT FURTHER ORDAINED that the provisions of this Ordinance shall be liberally construed in order to effectuate the transactions contemplated by this Ordinance.

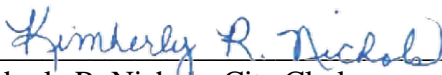
SECTION 7. BE IT FURTHER ORDAINED that this Ordinance shall become effective following approval by the Mayor or subsequent passage by the Council following the Mayor's veto in accordance with the provision of Section SC2-12 of the Charter; provided, however, that notwithstanding the effective date of this Ordinance, in the event (i) the City fails to amend the applicable budget of the City to include therein the 2021 Additional Project identified as "WWTP HVAC" in this Ordinance, the City may not apply 2015 Bond proceeds or investment earnings thereon to costs of such 2021 Additional Project, and (ii) the City fails to adopt a resolution making corresponding amendments to the provisions of Section 2(a) of Resolution No. 2569 to allow 2015 Bond proceeds and investment earnings thereon to be applied to costs of the 2021 Additional Projects, the City may not apply 2015 Bond proceeds or investment earnings thereon to costs of the 2021 Additional Project identified herein as "GOB Roof and Air Handler Replacement" or to costs of the 2021 Additional Project identified herein as "WWTP HVAC" if clause (i) is not satisfied, as applicable. Pursuant to Charter Section SC2-16, this Ordinance shall not be subject to petition to referendum.

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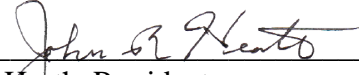
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THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the 11th day of January, 2021 and thereafter, a statement of the substance of this Ordinance having been posted or published as required by law, was finally passed by the Council X [as introduced] _____ [as amended] [CHECK APPLICABLE LINE] on the 25th day of January, 2021.

ATTEST:



Kimberly R. Nichols, City Clerk



John R. Heath, President
Salisbury City Council

APPROVED BY ME THIS 27th DAY OF January , 2021:



Jacob R. Day, Mayor

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INTER

OFFICE

MEMO

Department of Finance

To: Julia Glanz, City Administrator
From: Keith Cordrey, Director of Finance *KAC*
Subject: Allocation of FY16 Bond proceeds for GOB Roof Improvements and WWTP HVAC
Date: December 23, 2020

Please find attached an Ordinance prepared by bond counsel which allocates \$113,500 of interest accrued on FY16 bond proceed to be used for GOB Roof Improvements and \$90,000 to be used for the WWTP Main Building HVAC project.

Schedule B of the FY21 Budget Ordinance (No. 2593) established an appropriation of \$175,000 for GOB Roof Improvements using bond proceeds to be reallocated. A summary of funding sources for the GOB Roof improvements follows:

Funding Source	Amount
FY16 Bond Interest	113,500
FY18 Bond Interest	6,100
Police Communication Equipment Project	55,400
Total	175,000

A separate ordinance has been submitted to establish an appropriation for the WWTP Main Building HVAC project since it was not included in the City' FY21 Budget Ordinance.

After your review, if you do not have questions or concerns, please forward this ordinance to council for their consideration.