

Ordinance No. 2649

AN ORDINANCE OF THE COUNCIL (THE "COUNCIL") OF THE CITY OF SALISBURY AMENDING AND SUPPLEMENTING ORDINANCE NO. 2463, PASSED BY THE COUNCIL ON NOVEMBER 13, 2017, APPROVED BY THE MAYOR OF CITY OF SALISBURY (THE "CITY") ON NOVEMBER 15, 2017 AND EFFECTIVE ON NOVEMBER 15, 2017 ("ORDINANCE NO. 2463"), IN ORDER TO (1) AUTHORIZE AND EMPOWER THE CITY TO USE AND APPLY A PORTION OF THE PRINCIPAL AMOUNT OF THE \$5,724,853 CITY OF SALISBURY PUBLIC IMPROVEMENTS BOND OF 2017 ISSUED ON DECEMBER 13, 2017 (THE "2017 BOND"), PLUS CERTAIN INVESTMENT EARNINGS THEREON, TO THE PROJECTS IDENTIFIED HEREIN AS "GOB ROOF AND AIR HANDLER REPLACEMENT" AND "2 ONE TON DUMP TRUCKS (SANITATION & PARKS)" IN ADDITION TO THE PROJECTS ORIGINALLY IDENTIFIED IN ORDINANCE NO. 2463, AND (2) IDENTIFY SUCH ADDITIONAL PROJECTS AS "PROJECTS" FOR ALL PURPOSES OF ORDINANCE NO. 2463; 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 2017 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. 2463, passed by the Council of the City (the "Council") on November 13, 2017, approved by the Mayor of the City (the "Mayor") on November 15, 2017 and effective on November 15, 2017 ("Ordinance No. 2463"), 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 Five Million Seven Hundred Twenty-four Thousand Eight Hundred Fifty-three Dollars (\$5,724,853.00) (the "Authorized Bonds") in order to finance, reimburse or refinance "costs" (as defined in Section 3(b) of Ordinance No. 2463, and also defined as "Costs of the Projects") of the projects identified in Section 3(b) of Ordinance No. 2463 as (1) "MDT Upgrades/Replacements", (2) "Station 16 Rear Driveway Paving", (3) "Radio System & Dispatch Equipment/Improvements", (4) "Riverside Circle", (5) "Service Center Facility – Phase 1", (6) "Service Center Facility – Phase 2", (7) "Urban Greenway – Phase 1 – Riverwalk Section", (8) "Urban Greenway – Phase 2 – Carroll Street Section", (9) "Bicycle Master Plan Paths Including 1<sup>st</sup> Half of Rail Trail", (10) "Maintenance Dump Trucks", (11) "Recycle Trucks", (12) "Street Scaping: Division, Circle, and Camden", (13) Parking Garage

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Roof Waterproof Membrane”, (14) “New Parking Meters for Downtown”, and (15) “Parking Garage Upgraded Security Cameras” (herein collectively referred to as the “Authorized Projects” and referred to as the “Projects” in Ordinance No. 2463) 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. 2463 and Resolution No. 2794, adopted by the Council on November 27, 2017, approved by the Mayor on November 28, 2017 and effective on November 28, 2017 (“Resolution No. 2794”), the City determined to borrow money for the public purpose of financing or reimbursing “costs” and “Costs of the Projects” (as defined in Section 2(b) of Resolution No. 2794, which definitions mirror the definitions of “costs” and “Costs of the Projects” set forth in Section 3(b) of Ordinance No. 2463) of the projects specified in Section 2(a) of Resolution No. 2794 (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 Five Million Seven Hundred Twenty-four Thousand Eight Hundred Fifty-three Dollars (\$5,724,853.00); and

WHEREAS, pursuant to Resolution No. 2794, such Authorized Bond was issued in the original principal amount of \$5,724,853.00 and was designated as the City of Salisbury Public Improvements Bond of 2017 (the “2017 Bond”); and

WHEREAS, pursuant to the authority of the Enabling Act, Sections SC7-45 and SC7-46 of the Charter, Ordinance No. 2463 and Resolution No. 2794, the City sold and delivered the 2017 Bond to Branch Banking and Trust Company on December 13, 2017; and

WHEREAS, Section 2 of Resolution No. 2794 provides that proceeds of the 2017 Bond (which is referred to as the “Bond” in Resolution No. 2794) 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. 2794):

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	<u>Project Name</u>	<u>Maximum Principal Amount</u>
1.	MDT Upgrades/Replacements	\$150,000
2.	Station 16 Rear Driveway Paving	40,000
3.	Radio System & Dispatch Equipment/Improvements	898,253
4.	Riverside Circle	1,326,000
5.	Service Center Facility – Phase 1	550,000
6.	Service Center Facility – Phase 2	200,000
7.	Urban Greenway – Phase 1 – Riverwalk Section	307,200
8.	Urban Greenway – Phase 2 – Carroll Street Section	100,000
9.	Bicycle Master Plan Paths Including 1 <sup>st</sup> Half of Rail Trail	761,500
10.	Maintenance Dump Trucks	160,000
11.	Recycle Trucks	150,000
12.	Street Scaping: Division, Circle, and Camden	750,000
13.	Parking Garage Roof Waterproof Membrane	97,500
14.	New Parking Meters for Downtown	179,400
15.	Parking Garage Upgraded Security Cameras	<u>55,000</u>
	TOTAL	<u>\$5,724,853</u>

; and

WHEREAS, pursuant to Ordinance No. 2487, passed by the Council on June 4, 2018 and approved by the Mayor on June 13, 2018 (“Ordinance No. 2487”), the City reallocated an aggregate of \$37,230.00 of the principal amount of the Authorized Bonds originally allocated to the Authorized Projects identified as “Bicycle Master Plan Paths Including 1<sup>st</sup> Half of Rail Trail”, “Maintenance Dump Trucks” and “Recycle Trucks” to the Authorized Project identified as “Station 16 Rear Driveway Paving”, 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.	MDT Upgrades/Replacements	\$150,000
2.	Station 16 Rear Driveway Paving	77,230
3.	Radio System & Dispatch Equipment/Improvements	898,253
4.	Riverside Circle	1,326,000
5.	Service Center Facility – Phase 1	550,000
6.	Service Center Facility – Phase 2	200,000
7.	Urban Greenway – Phase 1 – Riverwalk Section	307,200
8.	Urban Greenway – Phase 2 – Carroll Street Section	100,000
9.	Bicycle Master Plan Paths Including 1 <sup>st</sup> Half of Rail Trail	758,534
10.	Maintenance Dump Trucks	154,500
11.	Recycle Trucks	121,236
12.	Street Scaping: Division, Circle, and Camden	750,000
13.	Parking Garage Roof Waterproof Membrane	97,500
14.	New Parking Meters for Downtown	179,400
15.	Parking Garage Upgraded Security Cameras	<u>55,000</u>
	TOTAL	<u>\$5,724,853</u>

; and

WHEREAS, \$55,400.00 of the principal amount of the 2017 Bond originally allocated to the Authorized Project identified as “Radio System & Dispatch Equipment/Improvements” in Ordinance No. 2463 and Resolution No. 2794 remains unspent, and the Council wishes to reallocate such unexpended principal amount, together with an additional \$146,100.00 of investment earnings on proceeds of the 2017 Bond, to two separate projects referred to in the City’s fiscal year 2021 budget as “GOB Roof and Air Handler Replacement” and “2 One Ton Dump Trucks (Sanitation & Parks)” (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. 2463 in order to allow a portion of the principal amount of the 2017 Bond, together with certain investment earnings thereon, 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. 2463.

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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.

(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. 2463 shall be construed to mean Ordinance No. 2463 as the allocation of the principal amount of the Authorized Bonds provided for therein has been reallocated pursuant to Ordinance No. 2487 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. 2463, from and after the effective date of this Ordinance, and subject to Sections 2(e) and 7 hereof, Section 3(b) of Ordinance No. 2463 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; acquisition of other property rights; site and utility improvements, including, without limitation, grading, landscaping, paving, sidewalk, curb, gutter, storm drain, water and sewer improvements, and related or similar activities and expenses; demolition, razing and removal; acquisition, construction, expansion, reconstruction, renovation, rehabilitation, improvement, installation, furnishing and equipping activities and expenses, and related or similar activities and expenses;

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planning, design, engineering, architectural, feasibility, surveying, bidding, permitting, inspection, construction management, financial, administrative and legal expenses, and related or similar activities and expenses; 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 (collectively, "Costs of the Projects"). 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.	MDT Upgrades/Replacements	\$150,000
2.	Station 16 Rear Driveway Paving	77,230
3.	Radio System & Dispatch Equipment/Improvements	842,853
4.	Riverside Circle	1,326,000
5.	Service Center Facility – Phase 1	550,000
6.	Service Center Facility – Phase 2	200,000
7.	Urban Greenway – Phase 1 – Riverwalk Section	307,200
8.	Urban Greenway – Phase 2 – Carroll Street Section	100,000
9.	Bicycle Master Plan Paths Including 1 <sup>st</sup> Half of Rail Trail	758,534
10.	Maintenance Dump Trucks	154,500
11.	Recycle Trucks	121,236
12.	Street Scaping: Division, Circle, and Camden	750,000
13.	Parking Garage Roof Waterproof Membrane	97,500
14.	New Parking Meters for Downtown	179,400
15.	Parking Garage Upgraded Security Cameras	55,000
16.	GOB Roof and Air Handler Replacement	55,400(1)
17.	2 One Ton Dump Trucks (Sanitation & Parks)	0(2)
	TOTAL	<u>\$5,724,853</u>

(1) In addition to the par amount of the Bonds allocated to the indicated project, the City intends to allocate certain investment earnings on the Bonds to this project.

(2) All Costs of the Projects of this identified project will be funded from investment earnings on the Bonds.

The projects identified in items 1-17 above are collectively referred to herein as the “Projects”. The Projects described in items 1-17 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 of the Projects, notwithstanding the descriptive names used for

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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) The Council hereby appropriates and allocates (i) \$6,100.00 of investment earnings on the 2017 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) \$140,000.00 of investment earnings on the 2017 Bond to be applied to costs of the 2021 Additional Project identified in the table in subsection (a) above as “2 One Ton Dump Trucks (Sanitation & Parks)”.

(c) By undertaking the amendments to Section 3(b) of Ordinance No. 2463 provided for in subsection (a) of this Section 2, the City is in effect (i) reducing the principal amount of the 2017 Bond to be applied to costs of the Authorized Project identified as “Radio System & Dispatch Equipment/Improvements” from \$898,253.00 to \$842,853.00; (ii) adding the 2021 Additional Projects identified as items 16-17 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 2017 Bond and investment earnings thereon; (iii) reallocating a portion of the principal amount of the 2017 Bond previously allocated to the project identified as “Radio System & Dispatch Equipment/Improvements” to the 2021 Additional Project identified as “GOB Roof and Air Handler Replacement”; and (iv) allocating (A) \$6,100.00 of investment earnings on the 2017 Bond to the 2021 Additional Project identified as “GOB Roof and Air Handler Replacement” and (B) \$140,000.00 of investment earnings on the 2017 Bond to the 2021 Additional Project identified as “2 One Ton Dump Trucks (Sanitation & Parks)”.

(d) The projects identified in the table set forth in subsection (a) above (which amends Section 3(b) of Ordinance No. 2463) 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. 2463 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. 2463 with respect to the application of the principal amount of the Authorized Bonds (which is the 2017 Bond because the maximum principal amount of “Bonds” authorized by Ordinance No. 2463 was issued as the 2017 Bond).

(e) Notwithstanding the foregoing provisions of this Section 2, 2017 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. 2794 to allow a portion of the principal amount of the 2017 Bond, together with investment earnings on the 2017 Bond, to be applied to costs of the 2021 Additional Projects.

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(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 2017 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. 2463, Resolution No. 2794 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 2017 Bond to finance or reimburse costs of the 2021 Revised Projects and to approve, execute and deliver all documents, certificates or instruments 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 2017 Bond.

SECTION 4. BE IT FURTHER ORDAINED that from and after the effective date of this Ordinance, Ordinance No. 2463 shall be deemed amended and supplemented as provided herein and all other terms and provisions of Ordinance No. 2463 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, in the event the City fails to adopt a resolution making corresponding amendments to the provisions of Section 2(a) of Resolution No. 2794 to allow 2017 Bond proceeds and investment earnings thereon to be applied to costs of the 2021 Additional Projects, the City may not apply 2017 Bond proceeds or investment earnings thereon for such purposes, notwithstanding the effective date of this Ordinance. Pursuant to Charter Section SC2-16, this Ordinance shall not be subject to petition to referendum.

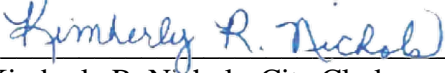
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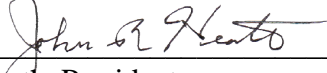
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THIS ORDINANCE was introduced and read at a meeting of the Council of the City of Salisbury held on the 11<sup>th</sup> day of \_\_\_\_\_, 2021, and thereafter, a statement of the substance of this Ordinance having been posted or published as required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

ATTEST:

  
\_\_\_\_\_  
Kimberly R. Nichols, City Clerk

  
\_\_\_\_\_  
John R. Heath, President  
Salisbury City Council

APPROVED BY ME THIS   27<sup>th</sup>   DAY OF   January  , 2021:

  
\_\_\_\_\_  
Jacob R. Day, Mayor

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OFFICE

# MEMO

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## *Department of Finance*

**To:** Julia Glanz, City Administrator  
**From:** Keith Cordrey, Director of Finance *KAC*  
**Subject:** Allocation of FY18 Bond proceeds for GOB Roof Improvements & (2) Dump Trucks  
**Date:** December 23, 2020

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Please find attached an Ordinance prepared by bond counsel which allocates \$6,100 of interest accrued on FY18 bond proceed to be used for GOB Roof Improvements and \$140,000 to be used for two Dump Trucks for the Field Operations Department.

Schedule B of the FY21 Budge Ordinance (No. 2593) established appropriations of \$140,000 for the Dump Trucks and \$175,000 for GOB Roof Improvements using bond proceeds to be reallocated. A summary of funding sources for the GOB Roof improvements follows:

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

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