

Resolution No. 3149

A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND AMENDING AND SUPPLEMENTING RESOLUTION NO. 2972, ADOPTED BY THE COUNCIL ON SEPTEMBER 9, 2019, APPROVED BY THE MAYOR ON SEPTEMBER 9, 2019 AND EFFECTIVE ON SEPTEMBER 9, 2019 (“RESOLUTION NO. 2972”), IN ORDER TO (1) AUTHORIZE AND EMPOWER CITY OF SALISBURY (THE “CITY”) TO USE AND APPLY A PORTION OF THE PRINCIPAL AMOUNT OF THE \$11,225,000 CITY OF SALISBURY PUBLIC IMPROVEMENTS BOND OF 2019 ISSUED ON OCTOBER 8, 2019 (THE “2019 BONDS”), TOGETHER WITH A PORTION OF THE NET ORIGINAL ISSUE PREMIUM RECEIVED BY THE CITY IN CONNECTION WITH THE SALE OF THE 2019 BONDS, IF APPLICABLE, TO PROJECTS IDENTIFIED HEREIN AS “RAIL TRAIL MASTER PLAN IMPLEMENTATION” AND “CITY PARK MASTER PLAN IMPROVEMENTS” IN ADDITION TO THE PROJECTS ORIGINALLY IDENTIFIED IN RESOLUTION NO. 2972, AND (2) IDENTIFY SUCH ADDITIONAL PROJECTS AS “PROJECTS” FOR ALL PURPOSES OF RESOLUTION NO. 2972; AUTHORIZING AND EMPOWERING CITY OFFICIALS AND EMPLOYEES TO TAKE CERTAIN ACTIONS WITH RESPECT TO THE 2019 BONDS; PROVIDING THAT THE PROVISIONS OF THIS RESOLUTION SHALL BE LIBERALLY CONSTRUED; AND OTHERWISE GENERALLY RELATING TO THE USE OF PROCEEDS OF THE 2019 BONDS.

RECITALS

WHEREAS, City of Salisbury, a municipal corporation of the State of Maryland (the “City”), was 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. 2554, passed by the Council of the City (the “Council”) on August 26, 2019, approved by the Mayor of the City (the “Mayor”) on August 27, 2019 and effective on August 27, 2019 (“Ordinance No. 2554”), the City authorized general obligation bonds to be issued from time to time in one or more series in an original aggregate principal amount not to exceed Twelve Million Four Hundred Eighty-Two Thousand Nine Hundred Seventy-Seven Dollars (\$12,482,977.00) (the “Authorized Bonds”) in order to finance, reimburse or refinance “costs” and “Costs of the Projects” (each as defined in Section 3(b) of Ordinance No. 2554) of the projects identified in Section 3(b) of Ordinance No. 2554 (herein collectively referred to as the “Authorized Projects” and referred to as the “Projects” in Ordinance No. 2554) in the maximum principal amounts set forth opposite each such Authorized Project in such Section 3(b), as follows:

	<u>Project Name</u>	<u>Maximum Principal Amount</u>
1.	Roof Replacement Fire Station 1 ¹	\$ 50,000
2.	Water Chiller & Heating and Air Conditioning ¹	300,000
3.	Main Street Master Plan ¹	6,740,000
4.	Bicycle Master Plan Implementation ¹	550,000
5.	Urban Greenway Implementation ¹	775,000
6.	Wayfinding and Signage ¹	50,000
7.	Bridge Maintenance and Replacement ¹	162,000
8.	Street Scaping ¹	206,000
9.	Zoo Admin Office Space ²	100,000
10.	Field Operations Facility Plan – Phase 2 ²	200,000
11.	Field Operations Facility Plan – Phase 3 ²	125,000
12.	Mill Street Bridge Rehabilitation ²	45,000
13.	Naylor Mill Road Bridge Replacement ²	70,000
14.	Bicycle Master Plan Improvements ²	300,000
15.	Urban Greenway Improvements ²	200,000
16.	Street Scaping ²	200,000
17.	Building Lighting and Controls (ECM 1) ³	711,426
18.	Mechanical (ECM 2) ³	387,403
19.	Building Management Systems (ECM 3) ³	183,237
20.	Building Envelope Improvement (ECM 4) ³	105,911
21.	Garage (Bearing Pad Replacement) ¹	400,000
22.	Parking Garage Structural Repairs ²	592,000
23.	Phone System Fire Department	30,000
	TOTAL	\$12,482,977

¹ Project was approved for bond funding in the fiscal year 2019 budget ordinance (Ordinance No. 2482).

² Project was approved for bond funding in the fiscal year 2020 budget ordinance (Ordinance No. 2539).

³ Projects were approved for bond funding by Ordinance No. 2521. Projects are further broken down by project components on Schedule B to Ordinance No. 2521; and

WHEREAS, pursuant to the authority of the Enabling Act, Sections SC7-45 and SC7-46 of the Charter, Ordinance No. 2554 and Resolution No. 2972, adopted by the Council on September 9, 2019, approved by the Mayor on September 9, 2019 and effective on September 9, 2019 (“Resolution No. 2972”), the City determined to borrow money for the public purpose of financing or reimbursing “costs” and “Costs of the Projects” (each as defined in Section 2(b) of Resolution No. 2972, which definitions mirror the definitions of “costs” and “Costs of the Projects” set forth in Section 3(b) of Ordinance No. 2554) of the projects specified in Section 2(a) of Resolution No. 2972 (which included all of the Authorized Projects identified in Section 3(b) of Ordinance No. 2554, and which are identified as the “Projects” in Resolution No. 2972), and evidenced this borrowing by the issuance and sale by public sale at competitive bid of a single series of the Authorized Bonds in the original aggregate principal amount of Eleven Million Two Hundred Twenty-Five Thousand Dollars (\$11,225,000) and designated as the “City of Salisbury Public Improvement Bonds of 2019” (the “2019 Bonds”); and

WHEREAS, as authorized by Resolution No. 2972, due to net original issue premium received by

the City in connection with the sale of the 2019 Bonds, the City was able to reduce the original aggregate par amount of the 2019 Bonds actually issued from the maximum original aggregate par amount of the Authorized Bonds provided for in Resolution No. 2972, and thereby to allocate a portion of such net original issue premium, together with the par amount of the 2019 Bonds, to fund Costs of the Projects of the Authorized Projects in the maximum aggregate principal amount of \$12,482,977 contemplated by Ordinance No. 2554; and

WHEREAS, the principal amount of the 2019 Bonds, together with net original issue premium, was originally appropriated and allocated to (i) the Authorized Projects identified in the table in the third preceding WHEREAS clause above, in the amounts specified in such table (for a total of \$12,482,977.00), (ii) \$85,912.89 to underwriter's discount, which was retained by Robert W. Baird & Co. Incorporated, the successful bidder for the 2019 Bonds at the public sale by competitive bid held therefor, (iii) \$45,375.00 to costs of issuance of other than underwriter's discount, and (iv) \$4,334.21, representing the rounding amount due to the fact that the 2019 Bonds were issued in denominations of \$5,000 and integral multiples thereof, which rounding amount was to be applied to additional costs of the Authorized Projects; and

WHEREAS, pursuant to Ordinance No. 2571, passed by the Council on January 13, 2020 and approved by the Mayor on January 21, 2020 ("Ordinance No. 2571"), the City reallocated \$1,431 of the principal amount of the 2019 Bonds originally allocated to the Authorized Project identified as "Phone System First Department" to the Authorized Project identified as "Roof Replacement Fire Station 1"; and

WHEREAS, pursuant to Ordinance No. 2593, passed by the Council on June 8, 2020 and approved on June 10, 2020 ("Ordinance No. 2593"), the City contemplated the reallocation of \$750,000 of the principal amount of the 2019 Bonds originally allocated to the Authorized Project identified as "Main Street Master Plan" to the Authorized Project identified as "Street Scaping," and provided for such reallocation by subsequent appropriate action; and

WHEREAS, pursuant to Ordinance No. 2593, the City also contemplated the reallocation of \$250,000 of the principal amount of the 2019 Bonds originally allocated to the Authorized Project identified as "Main Street Master Plan" to a project not included in Ordinance No. 2554 that is identified in Ordinance No. 2593 as "Rail Trail Master Plan Implementation;" to date, no proceeds of the 2019 Bonds have been spent on such additional project; and

WHEREAS, pursuant to Ordinance No. 2660, passed by the Council on June 14, 2021 and approved by the Mayor on June 22, 2021 ("Ordinance No. 2660"), the City contemplated the reallocation of an aggregate of \$1,143,674 of the principal amount of the 2019 Bonds originally allocated to the Authorized Project identified as "Main Street Master Plan" to the following Authorized Projects in the following amounts: (i) \$475,000 to the Authorized Project identified as "Bicycle Master Plan Improvements", (ii) \$450,000 to the Authorized Project identified as "Urban Greenway Improvements," and (iii) \$218,674 to the Authorized Project identified as "Street Scaping," and provided for such reallocation by subsequent appropriate action; and

WHEREAS, pursuant to Ordinance No. 2660, the City also contemplated the reallocation of an aggregate of \$700,000 of the principal amount of the 2019 Bonds originally allocated to the Authorized Project identified as "Main Street Master Plan" to two projects not included in Ordinance No. 2554 that are identified in Ordinance No. 2660 as (i) "Rail Trail Master Plan Implementation," in the amount of \$300,000, and (ii) "City Park Master Plan Improvements, in the amount of \$400,000 (collectively, the "Additional Projects" and, individually, an "Additional Project"); to date, no proceeds of the 2019 Bonds have been spent on either such Additional Project; and

WHEREAS, pursuant to (i) Ordinance No. 2596, passed by the Council on June 8, 2020 and approved on June 10, 2020, the Council allocated \$40,000 of interest earnings on proceeds of the 2019 Bonds to the Authorized Project identified as "Zoo Admin Office Space", and (ii) Ordinance No. 2682, passed by the

Council on September 27, 2021 and approved by the Mayor on October 6, 2021, the Council allocated \$64,000 of interest earnings on proceeds of the 2019 Bonds to the Authorized Project identified as “Zoo Admin Office Space;” and

WHEREAS, prior to the introduction of this Resolution, the Council passed Ordinance No. 2708 expanding the list of the Authorized Projects set forth in Ordinance No. 2554 to include the Additional Projects and amending Ordinance No. 2554 to allow a portion of the principal amount of the Authorized Bonds (meaning the 2019 Bonds), as well as net original issue premium of the 2019 Bonds and investment earnings on proceeds of the 2019 Bonds, to be applied to costs of the Additional Projects (the “Companion Ordinance”); and

WHEREAS, accordingly, the City desires to expand the list of the Original Projects as set forth in Resolution No. 2972 in order to allow a portion of the principal amount of the 2019 Bonds (which are referred to as the “Bonds” in Resolution No. 2972), together with net original issue premium and investment earnings, to be applied to costs of the Additional Projects, and to identify the Additional Projects as “Projects” for all purposes of Resolution No. 2972.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that:

Section 1.

(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, 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 Resolution to “principal amount” shall be construed to mean par amount. References in this Resolution to “proceeds” of the 2019 Bonds shall be construed to include the principal amount of the 2019 Bonds, net original issue premium received in connection with the sale of the 2019 Bonds, and investment earnings on the principal amount of the 2019 Bonds and such net original issue premium.

(d) References in the Sections of this Resolution to Ordinance No. 2554 shall be construed to mean Ordinance No. 2554 as the allocation of the principal amount of the Authorized Bonds provided for therein (meaning the 2019 Bonds) has been reallocated as described in the Recitals to this Resolution and as Ordinance No. 2554 has been further supplemented and amended pursuant to the Companion Ordinance.

(e) References in the Sections of this Resolution to Resolution No. 2972 shall be construed to mean Resolution No. 2972, as the allocation of the proceeds of the 2019 Bonds provided for therein has been reallocated as described in the Recitals to this Resolution and the Companion Ordinance.

(f) References in this Resolution to the application or use of proceeds of the 2019 Bonds to fund costs of the Revised Projects (as defined in Section 2(d) hereof) shall be construed to mean for purposes of the Enabling Act, Sections SC7-45 and SC7-46 of the Charter, Ordinance No. 2554 and Resolution No. 2972, as the same may be amended, modified or supplemented (including as provided for herein), use of such proceeds to finance or reimburse costs of the Revised Projects.

Section 2.

(a) Pursuant to the authority of the Enabling Act, Sections SC7-45 and SC7-46 of the Charter and Resolution No. 2972, subsection (a) of Section 2 of Resolution No. 2972 is hereby deleted in its entirety and inserted in place thereof shall be the following:

“Section 2. BE IT FURTHER RESOLVED that:

(a) Pursuant to the authority of the Enabling Act, the Charter and the Ordinance, subject to any reallocation of proceeds of the Bonds made to date, the City hereby determines to borrow money and incur indebtedness for the public purpose of financing or reimbursing costs (as defined in subsection (b) below) of the following public purpose projects in the maximum amount set forth opposite each such project (inclusive of any net original issue premium that may be applied for such purposes, except as otherwise expressly provided herein):

	<u>Project Name</u>	<u>Maximum Amount</u>
1.	Roof Replacement Fire Station 1 ¹	\$ 51,431
2.	Water Chiller & Heating and Air Conditioning ¹	300,000
3.	Main Street Master Plan ¹	3,896,326
4.	Bicycle Master Plan Implementation ¹	550,000
5.	Urban Greenway Implementation ¹	775,000
6.	Wayfinding and Signage ¹	50,000
7.	Bridge Maintenance and Replacement ¹	162,000
8.	Street Scaping ¹	206,000
9.	Zoo Admin Office Space ²	100,000
10.	Field Operations Facility Plan – Phase 2 ²	200,000
11.	Field Operations Facility Plan – Phase 3 ²	125,000
12.	Mill Street Bridge Rehabilitation ²	45,000
13.	Naylor Mill Road Bridge Replacement ²	70,000
14.	Bicycle Master Plan Improvements ²	775,000
15.	Urban Greenway Improvements ²	650,000
16.	Street Scaping ²	1,168,674
17.	Building Lighting and Controls (ECM 1) ³	711,426
18.	Mechanical (ECM 2) ³	387,403
19.	Building Management Systems (ECM 3) ³	183,237
20.	Building Envelope Improvement (ECM 4) ³	105,911
21.	Garage (Bearing Pad Replacement) ¹	400,000
22.	Parking Garage Structural Repairs ²	592,000
23.	Phone System Fire Department	28,569
24.	Rail Trail Master Plan Implementation ⁴	550,000
25.	City Park Master Plan Improvements ⁵	400,000

TOTAL	<u>\$12,482,977</u>

¹ Project was approved for bond funding in the fiscal year 2019 budget ordinance (Ordinance No. 2482).

² Project was approved for bond funding in the fiscal year 2020 budget ordinance (Ordinance No. 2539).

³ Projects were approved for bond funding by Ordinance No. 2521. Projects are further broken down by project components on Schedule B to Ordinance No. 2521.

⁴ Project was approved for funding from reallocation of par amount of the Bonds in the fiscal year 2021 budget ordinance (Ordinance No. 2593).

⁵ Project was approved for funding from reallocation of par amount of the Bonds in the fiscal year 2021 budget ordinance (Ordinance No. 2660).

The projects identified in items 1-25 above are collectively referred to herein as the “Projects” and individually as a “Project”. The Projects described in items 1-25 above are identified by approximately the same names as such Projects are identified in City budget or other materials.”

(b) As authorized by Section 3(c) of Resolution No. 2972, the par amount of the 2019 Bonds, as actually issued, was reduced from the maximum original aggregate principal amount provided for in Resolution No. 2972 to \$11,225,000, due to the availability of a portion of the net original issue premium provided for in connection with the sale of the 2019 Bonds to be applied to Costs of the Projects (as defined in Resolution No. 2972). Resolution No. 2972 specified that original issue premium and any investment earnings on proceeds of the 2019 Bonds may be spent on Costs of the Projects, including issuance costs, and/or to pay debt service on the 2019 Bonds. In furtherance of Section 3(c) of Resolution No. 2972, the Tax and Section 148 Certificate dated October 8, 2019 executed by the City with respect to the 2019 Bonds (the “2019 Tax Certificate”) provides that (i) \$1,259,977.00 of the net original issue premium received by the City in connection with the sale of the 2019 Bonds, together with the \$11,225,000.00 par amount of the 2019 Bonds, would be applied to fund \$12,482,977.00 of Costs of the Projects, and (ii) any rounding amounts (due to the 2019 Bonds being issued in denominations of \$5,000 and integral multiples thereof) and any portion of what is identified in the 2019 Tax Certificate as the “Bond-Funded Costs of Issuance Portion” not needed for costs of issuance of the 2019 Bonds could be applied to Costs of the Projects or to pay debt service on the 2019 Bonds within any limitations of the Code and the Treasury Regulations (each as defined in the 2019 Tax Certificate).

(c) By undertaking the amendments to Resolution No. 2972 provided for in this Section 2, the City is in effect (i) reflecting certain reallocations of the application of the par amount of the 2019 Bonds and net original issuance premium to the Costs of the Projects made prior to the introduction of this Resolution; (ii) adding the Additional Projects identified as items 24-25 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 2019 Bonds, net original issue premium allocated to such costs, and investment earnings; (iii) reallocating a portion of the principal amount of the 2019 Bonds and net original issue premium previously allocated to Costs of the Projects contemplated by Resolution No. 2972 to the Additional Projects, in the amounts specified in subsection (a) above; and (iv) specifying the maximum amount of the principal amount of the 2019 Bonds and net original issue premium allocated to Costs of the Project that may be allocated to such Additional Projects, subject to further reallocation in compliance with applicable budgetary procedures or applicable law, including, to the extent applicable, by resolution. By undertaking such amendments to Resolution No. 2972, the City will also be able to allocate or reallocate investment earnings on the proceeds of the 2019 Bonds to costs of such

Additional Projects, in addition to allocating or reallocating such investment earnings on costs of the Original Projects, in accordance with applicable City budgetary procedures or applicable law.

(d) The Projects identified in items 1-25 in the table set forth in subsection (a) above (which amends Section 2(a) of Resolution No. 2972) are collectively referred to herein as the “Revised Projects.” Subject to the provisions of subsection (e) below and Section 6 of this Resolution, from and after the effective date of this Resolution, all references to the Projects in Resolution No. 2972 shall be deemed to be references to the Revised Projects, as identified in this Resolution. From and after the effective date of this Resolution, the provisions of this Section 2 shall supersede the provisions of Resolution No. 2972 with respect to the application of proceeds of the 2019 Bonds.

(e) Notwithstanding the foregoing provisions of this Section 2, proceeds of the 2019 Bonds may not be applied to costs of the Additional Projects, nor will the amendments to Resolution No. 2972 provided for in this Section 2 be applicable, until (i) the Companion Ordinance becomes effective in accordance with applicable law and (ii) this Resolution becomes effective in accordance with applicable law.

Section 3. Subject to the provisions of Section 2(e) and Section 6 of this Resolution, the following officials of the City: the Mayor, the City Administrator, the Director of Finance, the City Clerk and all other appropriate officials and employees of the City, as applicable, are hereby authorized and empowered to take any and all action necessary to provide for application of the proceeds of the 2019 Bonds to finance or reimburse the costs of the Revised Projects and to approve, execute and deliver all documents, certificates and instruments necessary or appropriate in connection therewith or in connection with the transactions contemplated by this Resolution. In particular, any one or more of the Mayor, the City Administrator and the Director of Finance may approve, execute and deliver a certificate supplementing the Tax and Section 148 Certificate executed and delivered by the City in connection with the issuance of the 2019 Bonds.

Section 4. From and after the effective date of this Resolution, Resolution No. 2972 shall be deemed amended and supplemented as provided herein and all other terms and provisions of Resolution No. 2972 shall remain in full force and effect.

Section 5. The provisions of this Resolution shall be liberally construed in order to effectuate the transactions contemplated by this Resolution.


Section 6. It is the intention of the Mayor and Council of the City of Salisbury that each provision of this Resolution shall be deemed independent of all other provisions herein.

Section 7. It is further the intention of the Mayor and Council of the City of Salisbury that if any section, paragraph, subsection, clause or provision of this Resolution shall be adjudged invalid, unconstitutional or otherwise unenforceable under applicable Maryland or federal law, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and all other provisions of this Resolution shall remain and shall be deemed valid and enforceable.

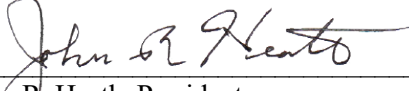
Section 8. This Resolution shall become effective upon adoption by the Council and approval by the Mayor; provided, however, that in the event the Companion Ordinance does not become effective in accordance with applicable law, the City may not apply proceeds of the 2019 Bonds to pay or reimburse Costs of the Projects of the Additional Projects. Pursuant to Charter Section SC7-46A, this Resolution may not be petitioned to referendum.

THIS RESOLUTION was introduced and read at a meeting of the Council of the City of Salisbury held on the 14th day of February, 2022, and was adopted by the Council X [as introduced] _____ [as amended] [CHECK APPLICABLE LINE] on the 14th day of February, 2022.

ATTEST:

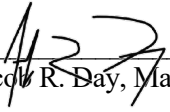


Kimberly R. Nichols, City Clerk



John R. Heath, President
Salisbury City Council

APPROVED BY ME THIS 15th DAY OF February , 2022



Jacob R. Day, Mayor

#224469;58111.001

INTER

OFFICE

MEMO

Department of Finance

To: Julia Glanz, City Administrator
From: Keith Cordrey, Director of Finance *KAC*
Subject: Reallocation of Main Street Master Plan
Date: January 20, 2022

Schedule B of the FY22 Budget Ordinance included a reallocation of \$1,843,674 from the Main Street Master Plan project to fund the following projects:

City Park Master Plan Improvements	400,000
Bicycle Master Plan Improvements	475,000
Urban Greenway Improvements	450,000
Rail Trail Master Plan Implementation	300,000
Downtown Street Scape	218,674
Total >>	1,843,674

Reallocation of bond proceeds to projects not previously included in a bond pool requires legislation prepared by bond counsel.

The attached resolution, prepared by bond counsel, inserts the Rail Trail Project in the bond pools as required so that the appropriations established in Schedule B of the FY 22 Budget Ordinance, including the Rail Trail Master Plan Implementation project, are included as a "Project" in the bond documents.

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