

Resolution No. 2816

A RESOLUTION OF THE COUNCIL (THE "COUNCIL") OF THE CITY OF SALISBURY ENTITLED A RESOLUTION AMENDING AND SUPPLEMENTING RESOLUTION NO. 2236, ADOPTED BY THE COUNCIL ON NOVEMBER 26, 2012, APPROVED BY THE MAYOR ON NOVEMBER 28, 2012 AND EFFECTIVE ON NOVEMBER 28, 2012 ("RESOLUTION NO. 2236"), IN ORDER TO AUTHORIZE AND EMPOWER CITY OF SALISBURY (THE "CITY") TO USE AND APPLY A PORTION OF THE PRINCIPAL AMOUNT OF THE \$6,041,000 CITY OF SALISBURY TAXABLE PUBLIC IMPROVEMENTS BOND OF 2012 ISSUED ON DECEMBER 5, 2012 (THE "2012 TAXABLE BOND") TO PROJECTS IDENTIFIED HEREIN AS "SEWER INFILTRATION AND INFLOW REMEDIATION", "REPLACE DISTRIBUTION PIPING AND VALVES", "RESTORE PARK WELL FIELD", "TANK AND RESERVOIR MIXING SYSTEM", "PALEO WATER TREATMENT PLANT ROOF IMPROVEMENTS", "PUMP STATION BUILDING IMPROVEMENTS", "PARK WATER TREATMENT ELECTRICAL GEAR REPLACEMENT", "GLEN AVENUE LIFT STATION" AND "SEWER EXTENSION IN MT. HERMAN ROAD" IN ADDITION TO THE PROJECTS ORIGINALLY IDENTIFIED IN RESOLUTION NO. 2236, AND (2) IDENTIFY THE SOURCES FROM WHICH DEBT SERVICE ON THE 2012 TAXABLE BOND ALLOCABLE TO SUCH ADDITIONAL PROJECTS WILL BE PAYABLE IN THE FIRST INSTANCE; AUTHORIZING AND EMPOWERING CITY OFFICIALS AND EMPLOYEES TO TAKE CERTAIN ACTIONS WITH RESPECT TO THE 2012 TAXABLE BOND; PROVIDING THAT THE PROVISIONS OF THIS RESOLUTION SHALL BE LIBERALLY CONSTRUED; AND OTHERWISE GENERALLY RELATING TO THE USE OF PROCEEDS OF THE 2012 TAXABLE BOND.

RECITALS

WHEREAS, City of Salisbury, a municipal corporation of the State of Maryland (the "City"), was authorized and empowered by Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland (now codified as 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, 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 ("Ordinance No. 2223") 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 Six Million Fifty Thousand Dollars (\$6,050,000) (the "Authorized Bonds") in order to finance, reimburse or refinance the "costs" (as defined in Section 3(b) of Ordinance No. 2223) of the projects identified in Section 3(b) of Ordinance No. 2223 as Caustic Chemical Feed Building, Wastewater Treatment Plant Upgrade and Costs of Issuance (herein referred to as the "Authorized Projects" and referred to as the "Projects" in Ordinance No. 2223) in the maximum principal amounts set forth opposite each such Authorized Project in such Section 3(b); and

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WHEREAS, pursuant to the authority of the Enabling Act, Sections SC7-45 and SC7-46 of the Charter, Ordinance No. 2223 and Resolution No. 2236, adopted by the Council on November 26, 2012, approved by the Mayor on November 28, 2012 and effective on November 28, 2012 (“Resolution No. 2236”), the City determined to borrow money for the public purpose of financing or reimbursing “costs” (as defined in Section 2(b) of Resolution No. 2236, which definition mirrors the definition of costs set forth in Section 3(b) of Ordinance No. 2223) of the projects specified in Section 2(a) of Resolution No. 2236 (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 bond in the maximum principal amount of Six Million Fifty Thousand Dollars (\$6,050,000.00); and

WHEREAS, the Mayor, 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 (the Director of Internal Services”), was authorized to reduce the maximum principal amount of such Authorized Bond prior to issuance if it was determined that the entire authorized principal amount of \$6,050,000.00 was not needed; and

WHEREAS, in accordance with the provisions of Resolution No. 2236, the Mayor, with the assistance of the City Administrator and the Director of Internal Services, determined to reduce the final original principal amount of such Authorized Bond to Six Million Forty-one Thousand Dollars (\$6,041,000.00), and such Authorized Bond as issued was designated as the City of Salisbury Taxable Public Improvements Bond of 2012 (the “2012 Taxable Bond”); and

WHEREAS, pursuant to the authority of the Enabling Act, Sections SC7-45 and SC7-46 of the Charter, Ordinance No. 2223 and Resolution No. 2236, the City issued and delivered the 2012 Taxable Bond to SunTrust Bank on December 5, 2012; and

WHEREAS, Section 2 of Resolution No. 2236 provides that proceeds of the 2012 Taxable Bond (which is referred to as the “Bond” in Resolution No. 2236) shall be appropriated and allocated to the specified Authorized Projects identified therein (the “Original Projects”), subject to the further provisions of such Section 2 (which Original Projects are referred to as the “Projects” in Resolution No. 2236); and

WHEREAS, after giving effect to issuance of the 2012 Taxable Bond, only \$9,000.00 of bonding authority remains unused under Ordinance No. 2223; accordingly, for all practical purposes the 2012 Taxable Bond constitutes the only “Bonds” that will be issued pursuant to authority of Ordinance No. 2223 and the only “Authorized Bonds” as referred to in this Resolution; and

WHEREAS, \$1,189,700.00 of the principal amount of the 2012 Taxable Bond originally allocated to the Original Project identified as “Wastewater Treatment Plant Upgrade” in Ordinance No. 2223 and Resolution No. 2236 remains unspent, and the Council wishes to reallocate such

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unexpended principal amount to certain projects referred to in the City's fiscal year 2018 budget as "Sewer Infiltration and Inflow Remediation", "Replace Distribution Piping and Valves", "Restore Park Well Field", "Tank and Reservoir Mixing System", "Paleo Water Treatment Plant Roof Improvements", "Pump Station Building Improvements", "Park Water Treatment Electrical Gear Replacement", "Glen Avenue Lift Station, and "Sewer Extension in Mt. Herman Road" (collectively, the "2018 Additional Projects"); and

WHEREAS, accordingly, the City desires to expand the list of the Original Projects identified in Resolution No. 2236 in order to allow a portion of the principal amount of the 2012 Taxable Bond to be applied to costs of the 2018 Additional Projects; and

WHEREAS, prior to the introduction of this Resolution, the Council adopted an ordinance amending and supplementing Ordinance No. 2223 to allow in effect proceeds of the 2012 Taxable Bond to be applied to costs of the 2018 Additional Projects.

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, 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 Resolution No. 2236 to the Director of Internal Services shall be construed to refer to the official of the City now known as the Director of Finance (the "Director of Finance").

(d) References in this Resolution to "principal amount" shall be construed to mean par amount.

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SECTION 2. BE IT FURTHER RESOLVED that (a) pursuant to the authority of the Enabling Act, Sections SC7-45 and SC7-46 of the Charter and Resolution No. 2236, Section 2 of Resolution No. 2236 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, 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):

	<u>Project Name</u>	<u>Maximum Principal Amount</u>
1.	Caustic Chemical Feed Building	\$1,200,000.00
2.	Wastewater Treatment Plant Upgrade	3,610,300.00
3.	Sewer Infiltration and Inflow Remediation	450,000.00
4.	Replace Distribution Piping and Valves	100,000.00
5.	Restore Park Well Field	165,700.00
6.	Tank and Reservoir Mixing System	84,000.00
7.	Paleo Water Treatment Plant Roof Improvements	46,000.00
8.	Pump Station Building Improvements	55,000.00
9.	Park Water Treatment Electrical Gear Replacement	61,500.00
10.	Glen Avenue Lift Station	127,500.00
11.	Sewer Extension in Mt. Herman Road	100,000.00
12.	Costs of Issuance	41,000.00
	<b>TOTAL</b>	<b>\$6,041,000.00</b>

The projects and costs of issuance identified in items 1-12 above are collectively referred to herein as the “Projects”. The Projects referred to in items 1-12 above are identified by approximately the same names as such Projects are identified in City budget materials.

(b) With respect to the Projects listed above, the word “costs” 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

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drain, water and sewer improvements, and related or similar activities and expenses; demolition, razing and removal; acquisition, construction, expansion, reconstruction, replacement, renovation, rehabilitation, improvement, installation, furnishing and equipping activities and expenses, and related or similar activities and expenses; planning, design, engineering, architectural, feasibility, surveying, bidding, permitting, inspection, construction management, surveying, financial, legal and administrative expenses, and related or similar activities and expenses; costs of issuance (which may include costs of bond insurance or other credit or liquidity enhancement); 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). 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, including, to the extent applicable, by resolution. Further, it is the intention of the Council that proceeds of the Bond may be spent on any applicable costs relating to the Projects identified in items 1-12 in the table set forth in subsection (a) above, notwithstanding the descriptive names used for such Projects in subsection (a) above, including, without limitation, as the definitions of and/or the scopes of activities relating to the Projects may have already been, or may in the future be, amended or modified in accordance with applicable budgetary procedures or applicable law.”

(b) Pursuant to the authority of the Enabling Act, Sections SC7-45 and SC7-46 of the Charter and Resolution No. 2236, Section 12(a) of Resolution No. 2236 is hereby deleted in its entirety and inserted in place thereof shall be the following:

“SECTION 12. BE IT FURTHER RESOLVED that (a) that portion of the principal and interest on the Bond allocated to the costs of the Projects identified as (i) “Caustic Chemical Feed Building”, “Replace Distribution Piping and Valves”, “Restore Park Well Field”, “Tank and Reservoir Mixing System”, “Paleo Water Treatment Plant Roof Improvements”, “Pump Station Building Improvements” and “Park Water Treatment Electrical Gear Replacement” 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”, “Sewer Infiltration and Inflow Remediation”, “Glen Avenue Lift

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Station” and “Sewer Extension in Mt. Herman Road” 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 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.”

(c) By undertaking the amendments to Section 2 of Resolution No. 2236 provided for in this Section 2, the City is in effect (i) reducing the principal amount of the 2012 Taxable Bond to be applied to costs of the Original Project identified as “Wastewater Treatment Plant Upgrade” from \$4,800,000.00 to \$3,610,300.00, (ii) adding the 2018 Additional Projects identified in items 3-11 in the table set forth in the portion of subsection (a) above that amends Section 2(a) of Resolution No. 2236 to the list of projects the costs of which may be financed or reimbursed from the principal amount of the 2012 Taxable Bond, (iii) reallocating a portion of the principal amount of the 2012 Taxable Bond previously allocated to the project identified as “Wastewater Treatment Plant Upgrade” to the 2018 Additional Projects, (iv) recognizing that the original principal amount of the 2012 Taxable Bond was reduced from \$6,050,000.00 to \$6,041,000.00 between the effective date of Resolution No. 2236 and the date of delivery of the 2012 Taxable Bond to reflect a reduction in the principal amount of the 2012 Taxable Bond to be applied to the Original Project identified as Costs of Issuance, and (v) identifying the sources from which allocable debt service on the 2012 Taxable Bond will be payable in the first instance.

(d) The projects identified in items 1-12 in the table set forth in subsection (a) above (which in part amends Section 2(a) of Resolution No. 2236) are collectively referred to herein as the “2018 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. 2236 shall be deemed to be references to the 2018 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 Sections 2 with respect to the application of proceeds of the 2012 Taxable Bond.

(e) Notwithstanding the foregoing provisions of this Section 2, proceeds of the 2012 Taxable Bond may not be applied to costs of the 2018 Additional Projects, nor will the amendment

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to Section 12(a) of Resolution No. 2236 provided for in subsection (a) above be applicable, unless an ordinance enacted by the City making corresponding amendments to the provisions of Section 3(b) of Ordinance No. 2223 to allow proceeds of the 2012 Taxable Bond to be applied to costs of the 2018 Additional Projects (the "Companion Ordinance") and this Resolution each becomes effective in accordance with applicable law.

(f) As provided in the Companion Ordinance, subject to the provisions of subsection (e) above and Section 6 of this Resolution, it is the intention of the Council that any interest income or investment earnings earned on the principal amount of the 2012 Taxable Bond (i) prior to the effective date of the Companion Ordinance, to the extent not already spent in accordance with the provisions of the Ordinance No. 2223, Resolution No. 2236 or applicable budgetary procedures or applicable law and (ii) on and after the effective date of the Companion Ordinance, shall be applied to costs of the 2018 Additional 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 RESOLVED that, 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 2012 Taxable Bond to finance or reimburse the costs of the 2018 Revised Projects and to execute and deliver all documents, certificates and instruments necessary or appropriate in connection therewith or in connection with the transactions contemplated by this Resolution.

SECTION 4. BE IT FURTHER RESOLVED that from and after the effective date of this Resolution, Resolution No. 2236 shall be deemed amended and supplemented as provided herein and all other terms and provisions of Resolution No. 2236 shall remain in full force and effect.

SECTION 5. BE IT FURTHER RESOLVED that the provisions of this Resolution shall be liberally construed in order to effectuate the transactions contemplated by this Resolution.

SECTION 6. BE IT FURTHER RESOLVED that this Resolution shall become effective upon adoption by the Council and approval by the Mayor; provided, however, in the event the Companion Ordinance does not become effective in accordance with applicable law, the City may not apply proceeds of the 2012 Taxable Bond to costs of the 2018 Additional Projects, notwithstanding the effective date of this Resolution. Pursuant to Charter Section SC7-46A, this Resolution may not be petitioned to referendum.

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THIS RESOLUTION was introduced and read at a meeting of the Council of the City of Salisbury held on the 26<sup>th</sup> day of February, 2018, and was adopted by the Council ✓ [as introduced] \_\_\_\_\_ [as amended] [CHECK APPLICABLE LINE] on the 26<sup>th</sup> day of February, 2018.

ATTEST:

Kimberly R. Nichols  
Kimberly R. Nichols, City Clerk

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

APPROVED BY ME THIS 28<sup>th</sup> DAY OF FEBRUARY, 2018

Jacob R. Day  
Jacob R. Day, Mayor

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INTER

OFFICE

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MEMO

*Department of Finance*

**To:** Julia Glanz, City Administrator  
**From:** Keith Cordrey, Director of Finance *KAC*  
**Subject:** 2012 Bond Reallocation  
**Date:** February 7, 2018

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The FY18 Budget Ordinance included in Schedule B a list of projects totaling \$1,189,700 to be funded by reallocation of the 2012 Bond proceeds. The 2012 Bond proceeds to be reallocated were assigned to the WWTP project which no longer requires these funds. The City's bond counsel has prepared an Ordinance and Resolution that provides the legislation required in order to reallocate the 2012 Bond proceeds assigned to the WWTP to the project listed in Schedule B under the column "Bond Reallocate" and totaling \$1,189,700.

**Schedule B – Capital Project Appropriations (2 of 2)**

Project Description	Project Amount	Funding Source					Bond
		Transfer/ Pay GO	Interest	Grant	Deductions	Reallocate	
Sewer Infiltration and Inflow Remediation	450,000						450,000
Replace Distribution Piping and Valves	100,000						100,000
Restore Park Well Field	165,700						165,700
Tank and Reservoir Mixing System	84,000						84,000
Paleo Water Treatment Plant Roof Improvements	46,000						46,000
Pump Station Building Improvements	55,000						55,000
Park Water Treatment Electrical Gear Replacemen	61,500						61,500
Glen Avenue Lift Station	127,500						127,500
Sewer Extension in Mt. Herman Road	100,000						100,000
WWTP Materials Warehouse and Security Buildin	20,000	20,000					
<b>Total Water Sewer Capital Projects</b>	<b>1,209,700</b>	<b>20,000</b>	-	-	-	-	<b>1,189,700</b>