

ORDINANCE NO. 2776

AN ORDINANCE OF THE CITY OF SALISBURY AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE BOYS & GIRLS CLUBS OF METROPOLITAN BALTIMORE, INC. FOR THE PURPOSE OF ACCEPTING MARYLAND STATE BOARD OF PUBLIC WORKS FUNDS IN THE AMOUNT OF 350,000, AND TO APPROVE A BUDGET AMENDMENT TO THE GRANT FUND TO APPROPRIATE THESE FUNDS FOR THE CONSTRUCTION OF THE TRUITT COMMUNITY CENTER EXPANSION PROJECT

WHEREAS, the City of Salisbury has entered into a Joint Use Agreement with the Boys & Girls Clubs of Metropolitan Baltimore, Inc. for the primary use of the City of Salisbury Truitt Community Center for a period of up to 15 years; and

WHEREAS, the Boys & Girls Clubs of Metropolitan Baltimore, Inc. was awarded \$350,000 by the Maryland State Board of Public Works for the expansion of the Truitt Community Center; and

WHEREAS, the City of Salisbury is providing the required Maryland State Board of Public Works grant match in the amount of \$450,000 for completion of Truitt Community Center expansion project; and

WHEREAS, the City of Salisbury must enter a contractual agreement with the Boys & Girls Clubs of Metropolitan Baltimore, Inc. defining how these funds must be reimbursed; and

WHEREAS, the Boys & Girls Clubs of Metropolitan Baltimore, Inc. agrees to reimburse the City of Salisbury for construction cost realized for the Truitt Community Center Expansion Project up to the amount of \$350,000 pursuant to the terms of a Construction Reimbursement Agreement, a copy of which is attached hereto as **Exhibit A**; and

WHEREAS, § 7-29 of the Salisbury City Charter prohibits the City from entering into a contract that requires an expenditure not appropriated or authorized by the Council of the City of Salisbury; and

WHEREAS, appropriations necessary to execute the purpose of this grant must be made upon the recommendation of the Mayor and the approval of four-fifths of the Council of the City of Salisbury.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, as follows:

Section 1. Mayor Jacob R. Day is hereby authorized to enter into the Construction Reimbursement Agreement with the Boys & Girls Clubs of Metropolitan Baltimore, Inc., on behalf of the City of Salisbury, a copy of which is attached hereto as **Exhibit A**, for the City's acceptance of grant funds in the amount of \$350,000.

BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, as follows:

Section 2. The City of Salisbury's Grant Fund Budget be and hereby is amended as follows:

- (a)** Increase TCC/BGCMB Grant Revenue Account No. 10500-424000-xxxxx (State of MD DGS revenue) by \$350,000.
- (b)** Increase TCC/BGCMB Grant Expense Account No. 10500-513026-xxxxxx (construction expense) by \$350,000.

BE IT FURTHER ENACTED AND ORDAINED BY THE COUNCIL OF THE CITY OF SALISBURY, MARYLAND, as follows:

Section 3. It is the intention of the Mayor and Council of the City of Salisbury that each provision of this Ordinance shall be deemed independent of all other provisions herein.

Section 4. 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 Ordinance 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 Ordinance shall remain and shall be deemed valid and enforceable.

Section 5. The recitals set forth hereinabove are incorporated into this section of the Ordinance as if such recitals were specifically set forth at length in this Section 5.

Section 6. This Ordinance shall take effect from and after the date of its final passage.

THIS ORDINANCE was introduced and read at a Meeting of the Mayor and Council of the City of Salisbury held on the 23rd day of January, 2023 and thereafter, a statement of the substance of the Ordinance having been published as required by law, in the meantime, was finally passed by the Council of the City of Salisbury on the 13th day of February, 2023.

ATTEST:

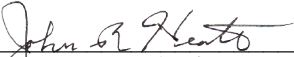


Kimberly R. Nichols, City Clerk



Muir Boda, City Council President

Approved by me, this 15th day of February, 2023.



John R. Heath, Acting Mayor

CONSTRUCTION REIMBURSEMENT AGREEMENT

THIS CONSTRUCTION REIMBURSEMENT AGREEMENT (herein “**Agreement**”) is entered into this _____ day of _____, 2023 (the “**Effective Date**”) by and between the City of Salisbury, a municipal corporation (the “**City**”), and the Boys & Girls Clubs of Metropolitan Baltimore, Inc. (hereinafter referred to as the “**Nonprofit**”), (City and Nonprofit are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**”).

RECITALS

WHEREAS, the Parties desire to express their mutual understanding and agreement regarding their financial roles and responsibilities in constructing a new building for the Truitt Community Center (“**Community Center**”) located at 319 Truitt Street, Salisbury, Maryland (the “**Premises**”); and

WHEREAS, the City, as the owner of the Premises, is utilizing \$464,009.00 of City funding to construct a new Community Center building on the Premises; and

WHEREAS, the Nonprofit has received a capital grant award in the amount of \$350,000 from the State of Maryland to be utilized in the construction of the Community Center. Subject to the terms and conditions of a Joint Use Agreement, the Community Center will support Boys & Girls Club youth programs and activities.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. The above recitals are hereby incorporated as if fully set forth herein.
2. **CONSTRUCTION FUNDING:**
 - a. The City will source and pay for all construction costs up to \$464,009.00 for the Community Center on the Premises.
 - b. Once the City has expended \$464,009.00 in funding for the construction of the Community Center, as determined in the sole discretion of the City, the Nonprofit will utilize up to \$350,000 of its capital grant award to complete the interior phase of the construction. With respect to the \$350,000 in funding provided by the Nonprofit, the City shall pay its selected contractors directly, and shall thereafter be reimbursed by the Nonprofit pursuant to the terms of this Agreement. Upon full completion of construction, if the \$350,000 of awarded funding is not fully expended, the Nonprofit will utilize the remaining capital grant funds to furnish the interior of the Community Center. At all times, all buildings, fixtures, furniture and materials paid for by either party in connection with this Agreement shall be the sole property of the City.
 - c. Duties of the City: The City agrees to:

- i. Involve a representative from the Nonprofit in the architecture and design meetings that pertain to the interior construction of the building.
 - ii. Utilize a competitive process to select the contractors. The parties recognize that all funding for the Community Center is subject to Davis-Bacon and Related Acts Wage Rates or other prevailing wage rates required by additional funding sources for this project. The selection of contractors, materials and design plans for the Community Center shall be in the sole discretion of the City.
 - iii. Submit all invoices related to the construction costs for the Community Center to the Nonprofit.
 - iv. Provide a monthly update to the Nonprofit on the construction project.
- d. Duties of the Nonprofit: The Nonprofit agrees to:
 - i. Carry out all duties as outlined in the parties' July 1, 2022 Joint Use Agreement and any extensions thereof.
 - ii. As requested by the City, provide resources and information that may be pertinent in carrying out the construction of the Community Center.
 - iii. Reimburse the City directly for all submitted invoices amounting up to \$350,000 as it relates of the Community Center.
- e. Each party will appoint a person to serve as the official contact and to coordinate the activities of each party in carrying out this Agreement. The initial appointees are:

Ron Strickler, City of Salisbury, rstrickler@salisbury.md

Anna Piccirilli, Boys & Girls Clubs of Metropolitan Baltimore, APiccirilli@bgcmetroaltimore.org

Vanessa Lyon, Boys & Girls Clubs of Metropolitan Baltimore, Vlyon@bgcmetroaltimore.org

3. **OWNERSHIP OF PREMISES**: Nothing in this Agreement shall be construed so as to afford the Nonprofit with any rights of ownership or tenancy in and to the Premises or the furniture, fixtures or equipment therein. The Nonprofit's use of the Premises shall be governed by a separate Joint Use Agreement. In any event, Nonprofit's use of the Premises shall be non-exclusive, subject to the City's general right to use the Premises, as well as the City's right to sell, lease or convey any other interest in and to the Premises.
4. **INVOICES**: All invoices shall be paid by the Nonprofit to the City within 60 days of receipt of the invoice by the Nonprofit. An invoice shall be considered received when it is emailed to the individuals identified in 2(e) above.
5. **AMENDMENTS**: This Agreement constitutes the entire agreement between the Parties with respect to the subject matter herein and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Agreement,

are superseded by this Agreement. No amendment to this Agreement shall be binding unless in writing and signed by the Parties.

6. **RELATIONSHIP OF PARTIES:** The Parties expressly acknowledge and agree this Agreement does not create an exclusive relationship between the parties. Nothing in this Agreement is intended to constitute, create, give effect or otherwise imply a joint venture, agency, partnership or other formal business organization or any employer/employee relationship of any kind between the Parties.
7. **SEVERABILITY.** The invalidity or unenforceability of any provision of this Assignment shall not affect or limit the validity and enforceability of the other provisions hereof. This Agreement and all of the terms and conditions set forth herein shall not be construed or enforced in favor of or against any Party hereto by reason of the fact that Party or that Party's agent or attorney drafted all or any part of this Agreement.
8. **GOVERNING STATE LAW.** The validity, interpretation and effect of this Agreement shall be governed by the laws of the State of Maryland. Further, the laws of the State of Maryland shall govern all rights, obligations, remedies and liabilities arising pursuant to this Agreement. No claim or dispute from or relating to this Agreement shall be required to be submitted to or settled by any type of arbitration process. Any legal proceedings involving any such claim or dispute shall be brought in the appropriate court in the State of Maryland.
9. **RIGHTS AND REMEDIES.** Mention in this Agreement of any specific right or remedy shall not preclude the City from exercising any other right or remedy available at law or in equity; and the failure of the City to insist in any one or more instances upon a strict or prompt performance of any obligation of Nonprofit under this Agreement or to exercise any option, right or remedy herein contained or available at law or equity shall not be construed as a waiver or relinquishment thereof, unless expressly waived in writing by the City. If a party obtains a judgment against the other party arising out of any default under this Agreement, then the defaulting party shall pay to the non-defaulting party all reasonable attorney's fees incurred by the non-defaulting party with respect to such default. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING HEREUNDER WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY.
10. **COUNTERPART AND FACSIMILE SIGNATURES:** This Agreement may be signed in any number of counterparts, each of which when signed will be deemed to be an original and all of which taken together will constitute one and the same agreement. Signature by facsimile or by email in portable document format (.pdf) also shall bind the Parties to this Agreement.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first written and do hereby acknowledge and accept the terms and conditions of this Agreement.

WITNESS:

Nonprofit

By: Jeffrey Breslin, President & CEO

WITNESS:

City of Salisbury, Maryland

By: Jacob R. Day, Mayor



City of
Salisbury
Jacob R. Day, Mayor

MEMORANDUM

To: Julia Glanz, City Administrator
From: Ronald L. Strickler, Jr, Director of Housing and Community Development
Date: 1/17/2023
Re: Acceptance of BGCMB Funding for Truitt Community Center

The Director of Housing and Community Development requests the opportunity to introduce an Ordinance for consideration by the Mayor and City Council to accept grant funding from the Boys and Girls Club of Metropolitan Baltimore and the Maryland State Board of Public Works in the amount of \$350,000. The City of Salisbury recently entered into a Joint Use Agreement with the BGCMB naming them as the primary user of the Truitt Community Center for youth and teen afterschool and summer camp programming for a period of up to 15 years. In partnership, the construction of the new facility was made possible and is now underway. BGCMB has secured \$350,000 in grant funding from the Maryland State Board of Public Works to support in the interior design, construction and furnishing of the new facility at the Truitt Street location. Should the ordinance be approved, the grant funding will become available to proceed with the secondary phase of the new facility.

Ronald L. Strickler, Jr

Ronald Strickler, Jr
Director, Housing and Community Development