

Resolution No. 1741

A RESOLUTION OF THE COUNCIL OF THE CITY OF SALISBURY ENTITLED A RESOLUTION SUPPLEMENTING RESOLUTION NO. 1511, PASSED BY THE COUNCIL ON APRIL 9, 2007, APPROVED BY THE MAYOR ON APRIL 9, 2007 AND EFFECTIVE ON APRIL 9, 2007, IN ORDER TO AUTHORIZE AND EMPOWER CITY OF SALISBURY TO USE AND APPLY A PORTION OF THE PROCEEDS OF THE \$4,950,000 CITY OF SALISBURY PUBLIC IMPROVEMENTS BOND OF 2007 ISSUED ON APRIL 12, 2007 (THE "2007 BOND") FOR THE PUBLIC PURPOSE OF FINANCING, REIMBURSING OR REFINANCING COSTS OF PLANNING, DESIGNING, DEVELOPING, ACQUIRING, CONSTRUCTING, IMPROVING, INSTALLING AND/OR EQUIPPING WATER, SEWER AND STORMWATER MANAGEMENT FACILITIES AND RELATED COSTS (INSTEAD OF APPLYING 2007 BOND PROCEEDS TO ACQUIRE COMPLETED FACILITIES OF SUCH NATURE AS ORIGINALLY CONTEMPLATED BY ORDINANCE NO. 2020); AUTHORIZING, DIRECTING OR EMPOWERING CITY OFFICIALS AND EMPLOYEES TO TAKE CERTAIN ACTIONS WITH RESPECT TO THE 2007 BOND; AND OTHERWISE GENERALLY RELATING TO THE USE OF PROCEEDS OF THE 2007 BOND.

RECITALS

WHEREAS, City of Salisbury, a municipal corporation of the State of Maryland (the "City"), is authorized and empowered by Sections 31 to 37, inclusive, of Article 23A 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 published in Municipal Charters of Maryland, Volume 6, 1990 Replacement Edition, 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 Ordinance No. 2020, adopted by the Council of the City on December 11, 2006, approved by the Mayor on December 15, 2006 and effective on December 15, 2006 (the "Original Ordinance"), and Resolution No. 1511, adopted by the Council of the City on April 9, 2007, approved by the Mayor on April 9, 2007 and effective on April 9, 2007 (the "Original Resolution"), the City determined to undertake certain projects identified in Section 3 of the Original Ordinance and Section 2 of the Original Resolution; and the City determined to borrow money for the public purpose of financing, reimbursing or refinancing "costs" (as identified in Section 3 of the Original Ordinance and Section 2 of the Original Resolution) of such projects, and to evidence this borrowing by the issuance and sale of its Public Improvements Bond of 2007 in the principal amount of Four Million Nine Hundred Fifty Thousand Dollars (\$4,950,000) (the "2007 Bond"); and

WHEREAS, pursuant to the Enabling Act, the Charter, the Original Ordinance and the Original Resolution, the City issued and delivered the 2007 Bond to SunTrust Leasing Corporation on April 12, 2007; and

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WHEREAS, Section 3(b) of the Original Ordinance and Section 2 of the Original Resolution provide that proceeds of the 2007 Bond shall be appropriated and allocated as follows:

<u>Project Description</u>	<u>Maximum Principal Amount</u>
1 Isabella Street-Shoreline Stabilization	\$2,050,000.00
2 Water/Sewer/Stormwater Management -Acquisition	2,760,000.00
3 Animal Health Building/Salisbury Zoo-Engineering	67,500.00
4 Fire Station #2 Renovation - Engineering	42,500.00
5 Costs of Issuance	30,000.00
	<u>\$4,950,000.00</u>

and the projects set forth above are herein referred to as the "Original Projects" and are referred to as the "Projects" in the Original Ordinance and the Original Resolution; and

WHEREAS, since the passage of the Original Ordinance and the Original Resolution and the issuance of the 2007 Bond, the City has determined that instead of applying \$2,760,000.00 of the proceeds of the 2007 Bond (exclusive of investment earnings that may be applied for such purpose) to acquire completed water, sewer and stormwater management facilities as contemplated by the Original Project identified as number 2 in the preceding WHEREAS clause, the City will apply such 2007 Bond proceeds to the costs of planning, designing, developing, acquiring, constructing, improving, installing and/or equipping such facilities and any related costs (the "2008 Modified Project"); and

WHEREAS, accordingly, the City desires to revise the description of the Original Projects as set forth in the Original Resolution in order to allow proceeds of the 2007 Bond to be applied to costs of the 2008 Modified Project.

SECTION 1. NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND that (a) pursuant to the authority of the Enabling Act, the Charter and the Original Resolution, Section 2(a) of the Original Resolution is hereby deleted in its entirety and inserted in place thereof shall be the following:

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“SECTION 2. BE IT FURTHER RESOLVED that (a) pursuant to the authority of the Enabling Act, the Charter and the Ordinance, the City hereby determines to borrow money and incur indebtedness for the public purpose of financing, reimbursing or refinancing the costs of the following public purpose projects in the maximum principal amount set forth opposite each such project, subject to subsection (c) below:

<u>Project Description</u>	<u>Maximum Principal Amount</u>
1 Isabella Street-Shoreline Stabilization	\$2,050,000.00
2 Water/Sewer/Stormwater Management	2,760,000.00
3 Animal Health Building/Salisbury Zoo-Engineering	67,500.00
4 Fire Station #2 Renovation – Engineering	42,500.00
5 Costs of Issuance	<u>\$ 30,000.00</u>
TOTAL	<u>\$4,950,000.00</u>

The projects identified in items 1 - 5 above are collectively referred to herein as the “Projects”.

(b) By undertaking the amendments to Section 2(a) of the Original Resolution provided for in subsection (a) of this Section 1, the City is revising the description of the Original Project identified as number 2 in Section 2(a) of the Original Resolution to change and expand the scope of activities for which proceeds of the 2007 Bond may be applied in respect of such project to include costs of planning, designing, developing, acquiring, constructing, improving, installing and/or equipping such facilities and any related costs. The projects identified in the chart set forth in subsection (a) above are collectively referred to herein as the “2008 Revised Projects”. From and after the effective date of this Resolution, all references to the Projects in the Original Resolution shall be deemed to be references to the 2008 Revised Projects, as identified in this Resolution. From and after the effective date of this Resolution, the provisions of this Section 1 shall supersede the provisions of the Recitals of and Section 2 of the Original Resolution with respect to the application of proceeds of the 2007 Bond.

(c) Notwithstanding the foregoing provisions of this Section 1, proceeds of the 2007 Bond may not be applied to costs of the 2008 Modified Project unless and until the City enacts an ordinance making corresponding amendments to the provisions of Section 3 of the Original Ordinance to allow proceeds of the 2007 Bond to be applied to costs of the 2008 Modified Project.

SECTION 2. BE IT FURTHER RESOLVED that, subject to the provisions of Section 1(c) of this Resolution, the Mayor and the Director of Internal Services are hereby authorized and empowered to supplement the Tax and Section 148 Certificate dated April 12, 2007, executed and delivered in connection with the issuance of the 2007 Bond, in order to evidence the expectations of

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the City as to the application of the proceeds of the 2007 Bond following the effective date of this Resolution.

SECTION 3. BE IT FURTHER RESOLVED that, subject to the provisions of Section 1(c) of this Resolution, the Mayor, the City Administrator, the Director of Internal Services, the City Clerk and all other appropriate officials and employees of the City, as applicable, are hereby authorized and directed to take any and all action necessary to provide for application of the proceeds of the 2007 Bond to finance, reimburse or refinance the costs of the 2008 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, subject to the provisions of Section 1(c) of this Resolution, from and after the effective date of this Resolution, the Original Resolution shall be deemed supplemented as provided herein and all other terms and provisions of the Original Resolution shall remain in full force and effect.

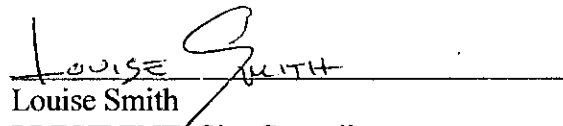
SECTION 5. BE IT FURTHER RESOLVED that this Resolution shall become effective upon adoption by the Council and approval by the Mayor; provided, however, in the event the City fails to enact an ordinance making corresponding amendments to the provisions of Section 3 of the Original Ordinance to allow proceeds of the 2007 Bond to be applied to costs of the 2008 Modified Project, the City may not apply proceeds of the 2007 Bond for such purpose, 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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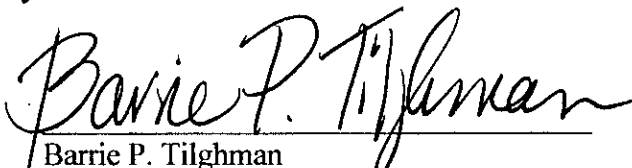
THIS RESOLUTION was introduced and read at a meeting of the Council of the City of Salisbury held on the 22nd day of December, 2008, and was adopted by the Council as introduced on the 22nd day of December, 2008.

ATTEST:


Brenda J. Colegrove
CITY CLERK


Louise Smith
PRESIDENT, City Council

Approved by me this
24th day of December, 2008.


Barrie P. Tilghman
MAYOR, City of Salisbury

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