

ORDINANCE NO. 3608

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF CUMBERLAND ENTITLED AN ORDINANCE SUPPLEMENTING ORDINANCE NO. 3562, PASSED BY THE MAYOR AND CITY COUNCIL ON JULY 25, 2006 AND EFFECTIVE ON AUGUST 24, 2006, AS SUPPLEMENTED BY ORDINANCE NO. 3573, PASSED BY THE MAYOR AND CITY COUNCIL ON FEBRUARY 6, 2007 AND EFFECTIVE ON MARCH 7, 2007, IN ORDER TO AUTHORIZE AND EMPOWER MAYOR AND CITY COUNCIL OF CUMBERLAND TO USE AND APPLY A PORTION OF THE PROCEEDS OF THE \$4,500,000 MAYOR AND CITY COUNCIL OF CUMBERLAND PUBLIC IMPROVEMENTS BOND OF 2006 ISSUED ON SEPTEMBER 27, 2006 (THE "2006 BOND") FOR THE PUBLIC PURPOSE OF FINANCING OR REIMBURSING COSTS OF THE REPLACEMENT OF ALLCONET WIRELESS NETWORK EQUIPMENT, IN ADDITION TO OR IN SUBSTITUTION FOR CERTAIN OF THE PROJECTS PROVIDED FOR IN ORDINANCE NO. 3562, AS SUPPLEMENTED BY ORDINANCE NO. 3573, AS IDENTIFIED HEREIN; AUTHORIZING CITY OFFICIALS AND EMPLOYEES TO TAKE CERTAIN ACTIONS WITH RESPECT TO THE 2006 BOND; PROVIDING THAT THIS TITLE IS A FAIR SUMMARY OF THIS ORDINANCE; AND OTHERWISE GENERALLY RELATING TO THE USE OF PROCEEDS OF THE 2006 BOND.

RECITALS

1. Mayor and City Council of Cumberland, 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 (West 2002, as replaced, supplemented or amended) (the

“Enabling Act”) and Sections 81 and 82A of the Charter of the City of Cumberland, as published in Municipal Charters of Maryland, Volume 2, 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.

2. Pursuant to Ordinance No. 3562, passed by the Mayor and City Council on July 25, 2006 and effective on August 24, 2006 (the “Original Ordinance”), the City determined to undertake certain projects identified as items 1-16 in Section 2(b) of the Original Ordinance (collectively, the “Original Projects”); and the City determined to borrow money for the public purpose of financing (including by reimbursing) “costs” (as identified in Section 2(b) of the Original Ordinance) of the Original Projects, and to evidence this borrowing by the issuance and sale of one or more series of its general obligation bonds in an aggregate principal amount not to exceed \$4,500,000.

3. Pursuant to the Enabling Act, the Charter, the Original Ordinance and a Resolution adopted by the Mayor and City Council on September 14, 2006 and effective on September 14, 2006 (the “Original Resolution”), the City issued and delivered to SunTrust Bank on September 27, 2006 its \$4,500,000 Mayor and City Council of Cumberland Public Improvements Bond of 2006 (the “2006 Bond”) in order to finance or reimburse costs of the Original Projects.

4. As provided in the Original Ordinance, the Original Resolution and the Tax and Section 148 Certificate dated September 27, 2006 (the “Original Tax Certificate”) executed and delivered by the City in connection with the issuance of the 2006 Bond, the City, without notice to or the consent of the holder of the 2006 Bond, was authorized to reallocate the maximum principal amount of the proceeds of the 2006 Bond to be spent among any of the Original Projects in compliance with applicable City budgetary procedures or applicable law.

5. In addition, Section 5 of the Original Ordinance provides that the proceeds of the bonds authorized thereby

“ . . . shall be used and applied by the City exclusively and solely for the public purposes described in Section 2 of this Ordinance, unless a supplemental ordinance is enacted by the Mayor and City Council to provide for the use and application of such proceeds for some other proper public purpose authorized by the Enabling Act or the Charter.”

6. The City achieved unanticipated cost savings on the Original Projects identified in the Original Ordinance as North End Pump Station, ARC Flash Assessment and George Street Parking Garage, the State Highway Administration offered to provide unexpected funding for the Original Project identified in the Original Ordinance as Monroe/Marion Street Bridge, and the City determined not to apply proceeds of the 2006 Bond to the Original Project identified in the Original Ordinance as Public Safety Building Garage Door Replacement. Due to the foregoing, and pursuant to Ordinance No. 3573, passed by the Mayor and City Council on February 6, 2007 and effective on March 7, 2007 (the “First Supplemental Ordinance”), the City supplemented the Original Ordinance in order to authorize the use and application of proceeds of the 2006 Bond to finance or reimburse costs of certain public purpose projects of the City identified therein as Capital Improvements/Equipment - City Hall, Capital Improvements - Public Safety Building, New Fire Engine and Road Improvement Program (collectively, the “2007 Additional Projects”) and to adjust the amount of 2006 Bond proceeds to be expended for certain of the Original Projects.

7. Pursuant to the Original Ordinance, as supplemented by the First Supplemental Ordinance (collectively, the “Current Ordinance”), proceeds of the 2006 Bond were allocated among the Original Projects and the 2007 Additional Projects as follows:

<u>Original Projects/ 2007 Additional Projects</u>	<u>Original Maximum Principal Amount – Original Projects</u>	<u>Authorized Maximum Principal Amount – 2007 Additional Projects</u>	<u>Adjustments</u>	<u>Maximum Principal Amount – 2007 Revised Projects</u>
1 Security Upgrades – City Hall	\$ 21,000.00	N/A	--	\$ 21,000.00
2 Security Upgrades – Public Safety Building	\$ 24,290.00	N/A	--	\$ 24,290.00
3 Security Upgrades – Municipal Service Center	\$ 50,000.00	N/A	--	\$ 50,000.00
4 City Hall Roof	\$ 75,000.00	N/A	--	\$ 75,000.00
5 Municipal Service Center Roof	\$ 80,000.00	N/A	--	\$ 80,000.00
6 Monroe/Marion Street Bridge	\$ 550,000.00	N/A	(440,000.00)	\$ 110,000.00
7 Public Safety Building Roof	\$ 120,000.00	N/A	--	\$ 120,000.00
8 Public Safety Building Garage Door Replacement	\$ 25,000.00	N/A	(25,000.00)	\$ 0.00
9 Rolling Mill Phase III	\$ 670,027.00	N/A	--	\$ 670,027.00
10 North End Pump Station	\$ 350,000.00	N/A	(62,800.00)	\$ 287,200.00
11 ARC Flash Assessment	\$ 86,623.00	N/A	(10,679.00)	\$ 75,944.00
12 Viaduct Pump Station Electrical Transformer	\$ 70,000.00	N/A	--	\$ 70,000.00
13 Blight Removal	\$ 200,000.00	N/A	--	\$ 200,000.00
14 George Street Parking Garage	\$2,100,000.00	N/A	(417,013.00)	\$1,682,987.00
15 Parking Kiosks	\$ 50,000.00	N/A	--	\$ 50,000.00
16 Costs of Issuance	\$ 28,060.00	N/A	--	\$ 28,060.00
17 Capital Improvements/Equipment – City Hall	N/A	\$ 20,000.00	+ 20,000.00	\$ 20,000.00
18 Capital Improvements – Public Safety Building	N/A	\$ 20,000.00	+ 20,000.00	\$ 20,000.00
19 New Fire Engine	N/A	\$300,000.00	+ 300,000.00	\$ 300,000.00
20 Road Improvement Program	N/A	\$615,492.00	+ 615,492.00	<u>\$ 615,492.00</u>
		TOTAL		\$4,500,000.00

The projects identified in items 1-20 above are collectively referred to herein as the “2007 Revised Projects” (and are referred to in the First Supplemental Ordinance as the “Revised Projects”).

8. The project components of the 2007 Revised Projects identified as “Blight Removal” and “Road Improvement Program” have not progressed as quickly as the City anticipated, and the City has experienced an unexpected need to replace certain equipment in its Allconet wireless network. Accordingly, the City desires to supplement the Current Ordinance in order to authorize the use and application of proceeds of the 2006 Bond to finance or reimburse

costs of the public purpose project of the City identified herein as “Replacement of Allconet Wireless Network Equipment” (the “2008 Additional Project”) and to adjust the amount of 2006 Bond proceeds to be expended for certain of the 2007 Revised Projects.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CUMBERLAND:

SECTION 1. Pursuant to the authority of the Enabling Act, the Charter and the Original Ordinance, the City hereby supplements the Current Ordinance in order to provide that proceeds of the 2006 Bond may be allocated to finance or reimburse costs (as such term is used in Section 2(b) of the Original Ordinance) among the following public purpose projects in the maximum principal amounts specified in the column below captioned “Maximum Principal Amount – 2008 Revised Projects” (exclusive of any investment earnings that may be applied for such purposes):

	<u>Current Maximum Principal Amount – 2007 Revised Projects</u>	<u>Authorized Maximum Principal Amount – 2008 Additional Project</u>	<u>Adjustments</u>	<u>Maximum Principal Amount – 2008 Revised Projects</u>
<u>2007 Revised Projects/2008 Additional Project</u>				
1 Security Upgrades – City Hall	\$ 21,000.00	N/A	--	\$ 21,000.00
2 Security Upgrades – Public Safety Building	\$ 24,290.00	N/A	--	\$ 24,290.00
3 Security Upgrades – Municipal Service Center	\$ 50,000.00	N/A	--	\$ 50,000.00
4 City Hall Roof	\$ 75,000.00	N/A	--	\$ 75,000.00
5 Municipal Service Center Roof	\$ 80,000.00	N/A	--	\$ 80,000.00
6 Monroe/Marion Street Bridge	\$ 110,000.00	N/A	--	\$ 110,000.00
7 Public Safety Building Roof	\$ 120,000.00	N/A	--	\$ 120,000.00
8 Public Safety Building Garage Door Replacement	\$ 0.00	N/A	--	\$ 0.00
9 Rolling Mill Phase III	\$ 670,027.00	N/A	--	\$ 670,027.00
10 North End Pump Station	\$ 287,200.00	N/A	--	\$ 287,200.00
11 ARC Flash Assessment	\$ 75,944.00	N/A	--	\$ 75,944.00
12 Viaduct Pump Station Electrical Transformer	\$ 70,000.00	N/A	--	\$ 70,000.00
13 Blight Removal	\$ 200,000.00	N/A	(73,465.99)	\$ 126,534.01
14 George Street Parking Garage	\$1,682,987.00	N/A	--	\$1,682,987.00
15 Parking Kiosks	\$ 50,000.00	N/A	--	\$ 50,000.00
16 Costs of Issuance	\$ 28,060.00	N/A	--	\$ 28,060.00
17 Capital Improvements/Equipment – City Hall	\$ 20,000.00	N/A	--	\$ 20,000.00
18 Capital Improvements – Public Safety Building	\$ 20,000.00	N/A	--	\$ 20,000.00
19 New Fire Engine	\$ 300,000.00	N/A	--	\$ 300,000.00
20 Road Improvement Program	\$ 615,492.00	N/A	(137,068.01)	\$ 478,423.99
21 Replacement of Allconet Wireless Network Equipment	N/A	\$210,534.00	+ 210,534.00	\$ 210,534.00
		TOTAL		\$4,500,000.00

The projects identified in items 1-21 above are collectively referred to herein as the “2008 Revised Projects.” The City, without notice to or the consent of the holder of the 2006 Bond, may reallocate the maximum principal amount of the proceeds of the 2006 Bond to be spent among any of the 2008 Revised Projects identified herein in compliance with applicable City budgetary procedures or applicable law. From and after the effective date of this Ordinance, all references to the Projects or the Revised Projects contained in the Current Ordinance shall be deemed to be references to the 2008 Revised Projects, as identified in this Ordinance. From and after the effective date of this Ordinance, the provisions of this Section 1 shall supersede the provisions of Section 2(b) of the

Original Ordinance and the provisions of Section 1 of the First Supplemental Ordinance with respect to the application of proceeds of the 2006 Bond.

SECTION 2. The Mayor and the Treasurer are hereby authorized and empowered to supplement the Original Tax Certificate, as supplemented by the Supplement to Tax and Section 148 Certificate dated March 7, 2007, in order to evidence the expectations of the City as to the application of the proceeds of the 2006 Bond following the effective date of this Ordinance.

SECTION 3. The Mayor, the City Administrator, the Comptroller, the Treasurer, the City Clerk and all other officials and employees of the City are hereby authorized and directed to take any and all action necessary to provide for application of the proceeds of the 2006 Bond to finance or reimburse 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 supplementing of the Current Ordinance provided for hereby.

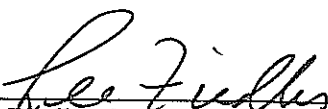
SECTION 4. From and after the effective date of this Ordinance, the Current Ordinance shall be deemed supplemented as provided herein and all other terms and provisions of the Current Ordinance shall remain in full force and effect.

SECTION 5. The title of this Ordinance shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

SECTION 6. This Ordinance shall become effective thirty (30) days after its passage pursuant to the provisions of Section 82A of the Charter.

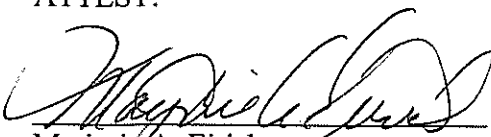
MAYOR AND CITY COUNCIL OF
CUMBERLAND

(SEAL)



Lee N. Fiedler, Mayor

ATTEST:



Marjorie A. Eirich
City Clerk

Introduced: May 13, 2008

Passed: May 13, 2008

Effective: June 12, 2008

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