

ORDINANCE NO. 264

AN ORDINANCE INCREASING THE INDEBTEDNESS OF THE BOROUGH OF ALBURTIS, COUNTY OF LEHIGH, PENNSYLVANIA, BY THE ISSUE OF A GENERAL OBLIGATION NOTE IN THE AMOUNT OF \$85,000.00 FOR SUNDRY PURPOSES; FIXING THE FORM, NUMBER, DATE, INTEREST, AND MATURITY THEREOF; MAKING A COVENANT FOR THE PAYMENT OF THE DEBT SERVICE ON THE NOTE; PROVIDING FOR THE FILING OF THE REQUIRED DOCUMENT; PROVIDING FOR THE APPOINTMENT OF A SINKING FUND DEPOSITORY FOR THE NOTE; AND AUTHORIZING EXECUTION, SALE AND DELIVERY THEREOF.

WHEREAS, it is necessary that the indebtedness of the Borough of Alburtis, 260 Franklin Street, Alburtis, Lehigh County, Pennsylvania, be increased for the following purpose: Reconstruction and resurfacing of Thomas Street and repair of water line therein;

WHEREAS, the local government unit has received preliminary realistic cost estimates from professional consultants indicating the sum of \$85,000.00 will be needed to complete the project; and

WHEREAS, the proposed increase of debt, together with its non-electoral indebtedness and its lease rental indebtedness presently outstanding, will not cause the limitations of the local government unit debt incurring power, pursuant to constitutional and statutory authority to be exceeded;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough of Alburtis, 260 Franklin Street, Alburtis, Lehigh County, Pennsylvania, and it is hereby ordained and enacted by the authority of same as follows:

SECTION 1. That the aggregate principal amount of the Note of the Borough of Alburtis, 260 Franklin Street, Alburtis, Lehigh County, Pennsylvania, proposed to be issued is \$85,000.00, same to be issued for the foregoing purposes and same to be incurred as non-electoral debt.

SECTION 2. The period of useful life of the improvements for which this obligation is to be issued is estimated to be in excess of twenty (20) years.

SECTION 3. Said indebtedness shall be evidenced by one general obligation Note, in fully registered form, in the sum of \$85,000.00 dated and bearing interest from the earliest date of possible issue of said Note under the statutory time requirements as set forth in the Act of the General Assembly of the Commonwealth of Pennsylvania approved the 28th day of April, 1978, being Act 52 of 1978 Session, at the rate of interest of 8% per annum,\* payable monthly on the unpaid balance of said Note from date of delivery, during the term of said Note, together with interest on overdue principal, and to the extent permitted by law, on overdue interest, at the rate of 8% per annum (computed on the basis of 365 days to the year) until paid, which Note shall mature in installments on the annual anniversary date of the said Note as follows:

Fiscal Year 1989.....	\$17,000.00
Fiscal Year 1990.....	\$17,000.00
Fiscal Year 1991.....	\$17,000.00
Fiscal Year 1992.....	\$17,000.00
Fiscal Year 1993.....	\$17,000.00

The local government unit reserves the right to anticipate any or all installments of principal or any payment of interest at any time prior to the respective payment dates thereof, without notice or penalty.

The principal and interest of said Note shall be payable at the office of the sinking fund depository selected for the Note as hereinafter provided.

SECTION 4. The said Note is hereby declared to be a general obligation of the Borough of Alburtis. The municipality hereby covenants that the municipality shall include the amount of debt

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\*In the event any governmental authority determines that interest paid to the bank is subject to taxation, the interest rate on the loan will be adjusted, retroactive to the date established for purposes of tax liability, at the bank's Large Business Prime rate (currently 9% but in no event to exceed 13% per annum) until the loan proceeds are paid in full.

service on the Note for each fiscal year in which such sums are payable in its budget for that year; shall appropriate such amounts to the payment of such debt service; and shall duly and punctually pay or cause to be paid the principal of the Note and the interest thereon at the dates and places and in the manner stated in the Note according to the true intent and meaning thereof, and for such proper budgeting, appropriation, and payment, the full faith, credit and taxing power of the Borough of Alburtis is hereby irrevocably pledged.

The amounts which the local government unit hereby covenants to pay in each of the following fiscal years on the basis of an interest rate of 8% are as follows:

<u>Year</u>	<u>Principal</u>	<u>Interest</u>
1989	\$17,000.00	\$ 1,360.00
1990	\$17,000.00	\$ 1,360.00
1991	\$17,000.00	\$ 1,360.00
1992	\$17,000.00	\$ 1,360.00
1993	\$17,000.00	\$ 1,360.00

SECTION 5. The form of said Note shall be substantially as follows:

UNITED STATES OF AMERICA  
COMMONWEALTH OF PENNSYLVANIA  
County of Lehigh  
Borough of Alburtis

GENERAL OBLIGATION NOTE

\$85,000.00

Dated:

KNOW ALL MEN BY THESE PRESENTS, that the Borough of Alburtis, County of Lehigh, Commonwealth of Pennsylvania, a local government unit existing by and under the laws of said Commonwealth, for value received, hereby acknowledges itself indebted and promises to pay.

to the purchaser, or registered assigns, the sum of EIGHTY-FIVE THOUSAND AND 00/100 DOLLARS (\$85,000.00) in installments as follows:

Fiscal Year 1989 the sum of \$17,000.00  
Fiscal Year 1990 the sum of \$17,000.00  
Fiscal Year 1991 the sum of \$17,000.00  
Fiscal Year 1992 the sum of \$17,000.00  
Fiscal Year 1993 the sum of \$17,000.00

with interest on the unpaid principal balance at the rate of eight percent (8%) per annum, \* payable monthly on the unpaid balance of said Note from date of delivery, during the term of said Note, together with interest on overdue principal, and to the extent permitted by law, on overdue interest, at the rate of eight percent (8%) per annum (computed on the basis of 365 days to the year), with the option in the local government unit to anticipate any installment of principal or any payment of interest at any time prior to the respective payment dates thereof, without notice or penalty.

Both principal and interest are payable in such coin or currency as at the respective dates of payment thereof shall be legal tender for the payment of public and private debts, at the office of the Merchants Bank, N.A., 702 Hamilton Mall, Allentown, Pennsylvania 18101-2499.

It is hereby recited that this Note is authorized to be issued in accordance with the act of the General Assembly of the Commonwealth of Pennsylvania approved the 28th day of April, 1978, being Act 52 of the 1978 Session.

It is hereby certified that all acts, conditions, and things required to be or be done, happen, and be performed precedent to and in the issuance of this Note or in the creation of the debt of which it is evidence, have been done, happened, and been performed in regular and due form and manner as required by law; and that this Note, together with all other indebtedness of the said local government unit is not in excess of any constitutional or statutory limitation and for the proper budgeting, appropriation, and the prompt and full payment of all the obligations of this Note the entire faith, credit, and taxing power of said local government unit are hereby irrevocably pledged.

It is hereby further certified that the said local government unit has effectively covenanted to include the amount of the debt service of this Note in each fiscal year for which such sums are due, in its budget for that year, to appropriate such amounts to the payment of such debt service, and to periodically pay or cause to be paid the principal and interest thereon at the dates and places and in the manner stated herein, according to the true intent and meaning hereof.

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\*In the event any governmental authority determines that interest paid to the bank is subject to taxation, the interest rate on the loan will be adjusted, retroactive to the date established for purposes of tax liability, at the bank's Large Business Prime rate (currently 9% but in no event to exceed 13% per annum) until the loan proceeds are paid in full.

IN WITNESS WHEREOF, the Borough of Alburtis has caused this Note to be properly executed by the proper officers of the local government unit and its corporate seal to be hereto affixed, attested to by the Secretary as of the \_\_\_\_\_ day of 19 .

BOROUGH OF ALBURTIS

By \_\_\_\_\_  
President of Council

By \_\_\_\_\_  
Borough Treasurer

ATTEST:

\_\_\_\_\_  
Borough Secretary

(SEAL)

SECTION 6. The said Note shall be executed in the name and under the corporate seal of the local government unit by the President of Council and the Borough Treasurer and attested to by the Secretary. The Treasurer is hereby authorized and directed to deliver said Note to the purchaser, and receive payment therefor on behalf of the local government unit. The President of Council and the Secretary of the local government unit are authorized and directed to prepare, verify and file the debt statement required by Section 410 of Act 52 of 1978, and to take other necessary action, including, if necessary or desirable, any statements required to qualify any portion of the debt from the appropriate debt limit as self-liquidating or subsidized debt.

SECTION 7. Merchants Bank, N.A., Allentown, Pennsylvania, is hereby designated as the Sinking Fund Depository for the obligation herein authorized, and there is hereby created and established a Sinking Fund, to be known as "Sinking Fund 19 General Obligation Note", for the payment of the principal and interest thereon which shall be deposited into the Sinking Fund no later than the date

upon which the same becomes due and payable. The Treasurer shall deposit into the Sinking Fund, which shall be maintained until such obligation is paid in full, sufficient amounts for payment of principal and interest on the obligation no later than the date upon which such payments shall become due. The Sinking Fund Depository shall, as and when said payments are due, without further action by the local government unit withdraw available monies in the Sinking Fund and apply said monies to payment of the principal and interest on the obligation.

SECTION 8. The President of Borough Council and Borough Secretary of the Borough of Alburtis are hereby authorized to contract with **MERCHANTS BANK, N.A.**, Allentown, Pennsylvania for its services as Sinking Fund Depository for the Note and paying agent for the same.

SECTION 9. In compliance with Section 701 of Act 52 of 1978, the members of the governing body have determined that a private sale by negotiation rather than public sale is in the best interest of the local government unit. Therefore, the general obligation Note in the amount of \$85,000.00 herein authorize~~d~~ to be issued and sold is hereby awarded and sold to **MERCHANTS BANK, N.A.**, Allentown, Pennsylvania in accordance with its proposal to purchase the said Note at par; provided the said Note is dated the date of delivery thereof to the **MERCHANTS BANK, N.A.**, Allentown, Pennsylvania and is in the form set forth in Section 5 of this Ordinance; and further provided that the proceedings have been approved by the Department of Community Affairs if such approval is required under the provisions of the Act.

SECTION 10. The action of the proper officers and the advertising of a summary of this Ordinance as requied by law in **THE MORNING**

CALL, a newspaper of general circulation, is ratified and confirmed. The advertisement in said paper of the enactment of the ordinance is hereby directed within fifteen (15) days following the day of final enactment.

SECTION 11. All ordinances or parts of ordinances not in accord with this Ordinance are hereby repealed insofar as they conflict herewith.

ORDAINED AND ENACTED THIS 26 day of October 1988.

BOROUGH OF ALBURTIS

BY Arthur R. Raines  
President of Council

ATTEST:

Loise Staub  
Borough Secretary

APPROVED this 26 Day of October 1988.

[Signature]  
Mayor