

**BOROUGH OF ALBURTIS  
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 520

(Duly Adopted April 9, 2014)

AN ORDINANCE AUTHORIZING THE BOROUGH OF ALBURTIS TO APPLY FOR MEMBERSHIP IN THE PENNSYLVANIA ONE CALL SYSTEM, INC. ("POCS"); TO ENTER INTO AN INDEMNITY AGREEMENT WITH POCS WITH RESPECT TO LOSSES, DAMAGES, AND EXPENSES ARISING OUT OF ERRORS OR OMISSIONS IN THE INFORMATION SUPPLIED BY THE BOROUGH TO POCS; AND TO ENTER INTO A FAX SERVICE AGREEMENT UNDER WHICH POCS WILL PROVIDE FACSIMILE UNDERGROUND LOCATION REQUEST NOTIFICATIONS TO THE BOROUGH.

**WHEREAS**, the Borough owns and operates a sanitary sewer collection and transportation system serving properties in the Borough of Alburtis, which was formerly owned and operated by the Borough of Alburtis Sewer Authority; and

**WHEREAS**, the Borough's sanitary sewer collection and transportation system includes, *inter alia*, underground pipes used in transporting sewage; and

**WHEREAS**, by virtue of these activities, the Borough is a "Facility Owner" within the meaning of the Act of December 10, 1974, Pa. Laws 852, No. 287, as amended, 73 PA. STAT. ANN. § 176 *et seq.* ("**Act**"); and

**WHEREAS**, section 2(1) of the Act, 73 PA. STAT. ANN. § 177(1), requires each Facility Owner to be a member of the One Call System provided for under the Act, which is the Pennsylvania One Call System, Inc.; and

**WHEREAS**, section 2(1)(iv) of the Act, 73 PA. STAT. ANN. § 177(1)(iv), requires each Facility Owner to indemnify and hold harmless the One Call System for any errors and omissions in the information supplied by the Facility Owner to the One Call System; and

**WHEREAS**, the Borough desires to satisfy the requirements to become a member of the One Call System and indemnify the One Call System for errors and omissions in the information supplied by the Borough to the One Call System, and to apply for Facsimile (FAX) Underground Location Request notifications from POCS;

**NOW, THEREFORE**, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburtis, Lehigh County, Pennsylvania, as follows:

**SECTION 1.** Chapter 65, Article XVI of the Alburtis Codified Ordinances (relating to Sanitary Sewer—Authorization of Agreements, Etc.) is amended by adding the following new Section 65-1609 after existing Section 65-1608:

**§ 65-1609 Agreements With Pennsylvania One Call System, Inc.**

The Borough of Alburtis shall enter into a Membership Agreement, an Indemnity Agreement, and a Fax Service Agreement with Pennsylvania One Call System, Inc. in the forms attached to Ordinance 520 as **Exhibit A**, which is incorporated into this Article by reference, and authorizes the President of Borough Council to sign each of these agreements on behalf of the Borough, and the Executive Secretary of the Borough to attest such signature.

**SECTION 2.** The attached **Exhibit A** is incorporated into this Ordinance by reference.

*{Remainder of page intentionally left blank.}*

**DULY ORDAINED** and **ENACTED** by the Borough Council of the Borough of Al-  
burtis, this 9<sup>th</sup> day of April, 2014, in lawful session duly assembled.

**BOROUGH COUNCIL  
BOROUGH OF ALBURTIS**

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Steven R. Hill, President

Attest:

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Sharon Trexler, Executive Secretary

**AND NOW**, this 9<sup>th</sup> day of April, 2014, the above Ordinance is hereby **APPROVED**.

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Kathleen Palmer, Mayor

**EXHIBIT A**

# Pennsylvania One Call System, Inc.

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## MEMBERSHIP AGREEMENT

In consideration of mutual benefits to be derived therein, the undersigned hereby applies for membership in the Pennsylvania One Call System, Inc., (POCS) as a Principal Member. Upon approval of this application, the undersigned agrees to abide by the Constitution and By-Laws of the POCS.

\_\_\_\_\_  
Date of Application

### BOROUGH OF ALBURTIS

WITNESS/ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
Signature and Title of Officer

\_\_\_\_\_  
Printed Name

\*\*\*\*\*

FOR POCS USE ONLY

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Date Approved \_\_\_\_\_

PENNSYLVANIA ONE CALL SYSTEM, INC.

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
President

# **Pennsylvania One Call System. Inc.**

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## **INDEMNITY AGREEMENT**

The undersigned Facility Owner member has opted under Section 2(1)(iv) of Act 287 of 1974, as amended, 73 P.S. §176, et.seq. ("the Act") to give notice to Pennsylvania One Call System, Inc. ("POCS") of the street identifications and other information for location of its lines, and hereby covenants and agrees, in accordance with the provisions of the Act, to indemnify and hold POCS harmless from any and all liability or expense, including attorney's fees, from all demands, claims, causes of action or judgments, and to reimburse POCS for all reasonable expenses incurred in investigating or resisting the same, for injury to person, loss of life, damage to property or other damages arising out of any error or omission in the information supplied by Facility Owner member to POCS. The undersigned Facility Owner member further agrees to abide by the Operating Procedures as set forth in the User's Guide for Pennsylvania Underground Utility Line Protection Law, and otherwise from time to time revised by the Board of POCS.

### **BOROUGH OF ALBURTIS**

Witness:

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By:

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Title:

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Date:

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# Pennsylvania One Call System, Inc.

## FAX SERVICE AGREEMENT

The undersigned hereby applies for Facsimile (FAX) Underground Location Request notification and in doing so agrees to become a member of Pennsylvania One Call System, Inc. (POCS) and abide by the constitution and by-laws upon acceptance as a member.

The undersigned further Covenants and Agrees:

1. To participate actively in the work of PA One Call System in, inter alia, preventing damage to underground lines.
2. To operate within the operating procedures established by the Board of Directors of the POCS in its business with POCS and to pay promptly the monthly fees set by the Finance Committee from time to time.
3. To have installed the system standard Facsimile (FAX) machine. Members will be required to receive notifications on a plain paper fax machine.

POCS will provide FAX Underground Location Request notification. In order to provide a reliable service at a minimum charge, the Committee has set standards for speed, equipment and telephone requirements. Please contact POCS administrative offices for specific requirements. The contract will be for a period of one year and be subject to written cancellation on 60 days notice by either party; however, cancellation of this contract shall not affect the undersigned membership in POCS.

### BOROUGH OF ALBURTIS

BY \_\_\_\_\_  
Signature/Title Date

\_\_\_\_\_  
Printed Name

Attest \_\_\_\_\_  
Witness/Title Date

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Date Approved: \_\_\_\_\_

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
President