

VOLD

BOROUGH OF AVALON
Allegheny County, Pennsylvania

ORDINANCE NO. 1323

AN ORDINANCE INCREASING THE INDEBTEDNESS OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY, PENNSYLVANIA, BY THE ISSUE OF A GENERAL OBLIGATION NOTE IN THE AMOUNT OF A \$1,350,000.00 LOAN AND A \$750,000.00 GRANT FOR THE INFRASTRUCTURE IMPROVEMENTS NEEDED FOR SEPARATING ITS SANITARY AND STORM SEWERS; FIXING THE FORM, NUMBER, DATE, INTEREST AND MATURITY THEREOF; MAKING A COVENANT FOR THE PAYMENT OF THE DEBT SERVICE OF THE NOTE; PROVIDING FOR THE FILING OF THE REQUIRED DOCUMENTS; PROVIDING FOR THE APPOINTMENT OF A SINKING FUND DEPOSITORY FOR THE NOTE; AND AUTHORIZING THE EXECUTION, SALE AND DELIVERY THEREOF.

WHEREAS, it is necessary that the indebtedness of the Borough of Avalon, Allegheny County, Pennsylvania be increased for the following purpose: infrastructure improvements needed for separating its sanitary and storm sewers; and

WHEREAS, the Municipality has received preliminary and realistic cost estimates from professional engineers indicating the sum of \$2,100,000.00 will be needed to complete the project; and

WHEREAS, the proposed increase of debt, together with its nonelectoral indebtedness and any lease rental indebtedness presently outstanding, will not cause the limitations of Avalon's debt incurring power, pursuant to constitutional and statutory authority, to be exceeded.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough of Avalon, and it is hereby ordained and enacted by the authority of same in lawful session assembled, a full quorum being present and acting throughout, as follows:

SECTION 1. That the aggregate principal amount of the Note of the municipality is \$1,350,000.00, the same to be issued for the foregoing purpose and same to be incurred as nonelectoral 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 five years.

SECTION 3. This indebtedness shall be evidenced by one General Obligation Note, in fully registered form, in the principal sum of \$1,350,000.00, dated and bearing interest from the earliest date of possible issue of this 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 the 1978 Session and known as the Local Government Unit Debt Act, at the rate of interest of 2.109% per annum for years one through five and at the rate of 2.965% per annum from years six through twenty, which is maturity (for a cumulative total of 240 months) payable annually on the unpaid balance of this Note on the anniversary date of the Note during the term of the Note, together with interest on overdue principal and, to the extent permitted by law, on overdue penalty interest at the rate of _____ % 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 this Note, as indicated on Exhibit "A," attached hereto and incorporated herein by reference.

Avalon 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 this Note shall be payable at the office of the Sinking Fund Depository selected for the Note as hereinafter provided.

SECTION 4. This Note is hereby declared to be a general obligation of Avalon. The Borough of Avalon hereby covenants that it shall include the amount of the debt service on the Note for each fiscal year in which such sums are payable in its budget for that year. In addition, the Borough 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 on the dates, at the places, and in the manner stated in the Note---according to the true intent and meaning thereof. Furthermore, the full faith, credit and taxing power of the Borough of Avalon is hereby irrevocably pledged for such proper budgeting, appropriation, and payment,

Avalon hereby covenants to pay, on years 1-5, an interest rate of 2.109%. See Exhibit "B," attached hereto and incorporated herein by reference. Furthermore, Avalon hereby covenants to pay an interest rate of 2.965% on years 6-20. See Exhibit "C," attached hereto and incorporated herein by reference.

SECTION 5. The form of this Note shall be substantially set forth in the Exhibit "A," which is attached hereto and incorporated herein by reference.

SECTION 6. This Note shall be executed in the name and under the corporate seal of the Borough of Avalon by its President and its Vice-President and attested to by the Secretary. The Treasurer is hereby authorized and directed to deliver this Note to the purchaser and to receive payment thereof on behalf of the Borough of Avalon. The Secretary-Manager is hereby authorized and directed to prepare, verify, and

file the Debt Statement required by section 8110 of the Act 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. National City is hereby designated as the Sinking and Depository for the obligation herein authorized, and a Sinking Fund will be created and known as "Sinking Fund 2008 General Obligation Note," for the payment of principal and penalty interest there-on, 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 then, as and when these payments are due and without further action by the Avalon, withdraw available monies from the Sinking Fund and apply these monies to payment of the principal and penalty and/or interest on the obligation.

SECTION 8. The Council President and Secretary-Manager of the Borough of Avalon are hereby authorized to contract with National City for its services as Sinking Fund Depository for the Note and paying agent for the same.

SECTION 9. In compliance with section 8161 of the Act, the members of the governing body have agreed that a private sale by negotiation rather than a public sale is in the best interest of the Borough. Therefore, the General Obligation Note in the amount of \$1,350,000.00 herein authorized to be issued and sold is hereby awarded and sold to the Pennsylvania Infrastructure Investment Authority (PENNVEST) in accordance with its

proposal to purchase the Note at par; provided that the Note is dated the date of delivery thereof to PENNVEST and is in the form set forth in this Ordinance as Exhibit "A," attached hereto and incorporated herein by reference, and further provided that the proceedings have been approved by the Department of Community and Economic Development (hereinafter, the "DCED"), 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 required by law in a newspaper of general circulation, is hereby ratified and confirmed. The advertisement in this 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 _____ day of _____, 2008.

BY: _____
SECRETARY-MANAGER,
HARRY DILMORE

BY: _____
PRESIDENT,
EDWARD KLICKER

By: _____
MAYOR, DAVID HASLETT

APPROVED AS TO FORM:

By: _____
SOLICITOR,
RICHARD S. CANCEILLO