

**BOROUGH OF AVALON
ORDINANCE NO. 1367**

AN ORDINANCE INCREASING THE INDEBTEDNESS OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY, PENNSYLVANIA, THE ISSUE OF A GENERAL OBLIGATION NOTE IN THE AMOUNT OF \$200,000.00 FOR THE RECONSTRUCTION OF SOUTH BIRMINGHAM AVENUE AND RELATED INFRASTRUCTURE; 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: The project consisting of the reconstruction project for South Birmingham Avenue and related infrastructure (hereinafter called the "Project"); and

WHEREAS, the Borough has received preliminary and realistic cost estimates from its Borough staff, Borough Engineer and contractors indicating the sum of approximately \$200,000.00 will be needed to complete the project; and

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

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of 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 \$200,000.00, 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 5 years.

SECTION 3. Said indebtedness shall be evidenced by one general obligation Note (known as the AIM Loan Agreement and attached hereto), in proper form, in the principal sum of \$200,000.00, 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 1.34% per annum, payable annually on the unpaid balance of said Note on the anniversary date of said Note during the term of said Note, together with interest on overdue principal, and to the extent permitted by law, on overdue penalty interest, at the rate of 4.02% 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 said Note as follows:

	PRINCIPAL	INTEREST
Fiscal Year 2017	\$40,000.00	\$ 2,680.00
Fiscal Year 2018	\$40,000.00	\$ 2,144.00
Fiscal Year 2019	\$40,000.00	\$ 1,608.00
Fiscal Year 2020	\$40,000.00	\$ 1,072.00
Fiscal Year 2021	\$40,000.00	\$ 536.00

It is further acknowledged that the Loan Agreement has a litigation clause which the Municipality acknowledged and which clause calls for payment by the Municipality of the AIM Solicitor in the event of any litigation caused by the borrower's delinquencies.

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 Municipality. The Municipality 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; 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 Municipality is hereby irrevocably pledged.

The amounts which the Municipality hereby covenants to pay in each of the following fiscal years on the basis of a penalty interest rate of 4.02% (three times the established rate) are as follows:

<u>YEAR</u>	<u>PRINCIPAL</u>	<u>INTEREST</u>
2017	\$40,000.00	\$8,040.00
2018	\$40,000.00	\$6,432.00
2019	\$40,000.00	\$4,824.00
2020	\$40,000.00	\$3,216.00
2021	\$40,000.00	\$1,608.00

SECTION 5. The form of said Note shall be the Loan Agreement which is attached hereto and incorporated in this Ordinance as part and parcel thereof, showing the obligation arising out of

SECTION 5. The form of said Note shall be the Loan Agreement which is attached hereto and incorporated in this Ordinance as part and parcel thereof, showing the obligation arising out of the Loan Agreement to the Municipality.

SECTION 6. The said Note shall be executed and guaranteed in the name and under the corporate seal of the Municipality by its Council President and Council Vice-President and attested to by the Secretary. The Borough Solicitor and Secretary of Municipality are authorized and directed to prepare, certify 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 statement required to qualify any portion of the debt from the appropriate debt limit as self-liquidating or subsidized debt.

SECTION 7. Wesbanco is hereby designated as the Sinking Fund Depository for the obligation herein authorized, and a Sinking Fund will be created and known as "Sinking Fund 2016 General Obligation Note," for the payment of principal and penalty interest there-on which shall be deposited into the Sinking Funds no later than the date upon which the same becomes due and payable. The Treasurer will then 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 said payments are due, without further action by the Municipality, withdraw available monies in the Sinking Fund and apply said monies to payment of the principal and penalty interest on the obligation.

SECTION 8. The appropriate officers of the Municipality are hereby authorized to contract with Wesbanco for its service 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 agreed that a private sale by negotiation rather than public sale is in the best interest of the Borough. Therefore, the general obligation Note in the amount of \$200,000.00 , herein authorized to be issued and sold, is hereby awarded and sold to the Authority for Improvements in Municipalities (AIM) in accordance with AIM's proposal to purchase the Note at Par; provided the said Note is dated the date of delivery thereof to AIM and is in the form set forth in the attached Loan Agreement between AIM and the Borough; and further provided that the proceedings have been approved by the Department of Community and Economic Development 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 the Ordinance as required by law in 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.

It is further acknowledged that for the consideration given by AIM, the Loan Agreement contains as indemnification clause for AIM, its officers, directors, administrators, employees and their successors and assigns.

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

ORDAINED AND ENACTED this 16th day of August, 2016.

THIS ORDINANCE adopted by the Council of Avalon Borough at a duly assembled public meeting held this 16th day of August, 2016.

ATTEST:

AVALON BOROUGH

Serraine Makatuna
Secretary

By: [Signature]
Council President

Serraine Makatuna
Secretary

By: [Signature]
Council Vice President

Acknowledged By: [Signature]
Mayor

APPROVED AS TO FORM:

[Signature]
Megan M. Ott, Esquire
Solicitor

This Ordinance recorded in the Borough Ordinance book on August 16, 2016 by the undersigned.

[Signature]
Borough Secretary