

Administration

ORDINANCE NO. 15106

FILE OF THE CITY COUNCIL

BILL NO. 67 - 2013

Introduced by _____ and _____

Amended by _____ and _____

AN ORDINANCE

OF THE COUNCIL OF THE CITY OF ALLENTOWN, LEHIGH COUNTY, PENNSYLVANIA, AUTHORIZING AND DIRECTING THAT ACTION BE TAKEN TO EFFECTUATE A DEPOSIT OF CERTAIN MONIES TO FUND THE CITY'S UNFUNDED PENSION LIABILITY IN ACCORDANCE WITH ACT 205, THE MUNICIPAL PENSION PLAN FUNDING STANDARD AND RECOVERY ACT, AUTHORIZING THE ISSUANCE OF A NOTE IN THE PRINCIPAL AMOUNT OF \$150,000,000 TO FUND THE CITY'S PENSION PLAN CONTRIBUTION AND AUTHORIZING THE APPROPRIATION OF NOTE PROCEEDS TO THE PENSION FUND, AUTHORIZING APPROPRIATE OFFICERS AND OFFICIALS TO TAKE REQUIRED NECESSARY AND/OR APPROPRIATE ACTION, TO BRING ABOUT THE FOREGOING REDUCTION, PROVIDING FOR SEVERABILITY OF PROVISIONS OF THE ORDINANCE, PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF THE ORDINANCE SO FAR AS THE SAME SHALL BE INCONSISTENT, PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

WHEREAS, the City of Allentown, Lehigh County, Pennsylvania (the "City"), is a City acting under and pursuant to the laws of the Commonwealth of Pennsylvania and the City's home rule charter; and

WHEREAS, the City presently has an unfunded actuarial accrued liability in its single employer pension plan; and

WHEREAS, certain proceeds realized from the City's closing of its Sewer and Water Concession Lease Agreement with the Lehigh County Authority are available; and

WHEREAS, Council of the City of Allentown ("City Council") has determined to establish and designate its Restricted Pension Obligation Account ("RPOA") established at National Penn Bankshares Inc. ("KNBT") as a committed restricted account in the amount of One Hundred and Fifty Million Dollars (\$150,000,000) for purposes of holding monies for the funding of the City's pension obligation and to direct that any and all interest accrued in its RPOA to be transferred to the City's lease proceeds account ("Lease Proceeds Account") with KNBT; and

WHEREAS, City Council has determined it to be in its best interest to take certain necessary steps to effectuate a deposit toward the City's unfunded pension liability as permitted under Section 404 of Act 205, the Municipal Pension Funding Standard and Recovery Act (the "Act"); and

WHEREAS, City Council has determined to implement the foregoing decision by authorizing and directing a borrowing from the RPOA, all in accordance with the Act; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City, as follows:

Section 1. Council of the City of Allentown does authorize and direct the designation of the RPOA as a committed restricted account in the amount of One Hundred and Fifty Million Dollars (\$150,000,000) for the purposes of holding monies to fund the City's pension obligation.

Section 2. Any and all interest accrued on the principal sum of One Hundred and Fifty Million Dollars (\$150,000,000), in the RPOA shall be transferred to the Lease Proceeds account.

Section 3. City Council has determined that it is in the best interest of the City to deposit certain monies to fund the City's unfunded pension liability as permitted under Section 404 of Act 205.

Section 4. (a) In order to effectuate the foregoing decision, the Council of the City does hereby authorize the issuance of a note ("Note") under the terms and conditions as set forth herein payable to the RPOA in the principal amount of One Hundred and Fifty Million Dollars (\$150,000,000) in fully registered

form, bearing interest at the rate not to exceed 3.500% per annum (interest and principal payable semi-annually) for a term not to exceed 15 years. The Note evidences obligations for pensions allocable to current operating expenses of future years.

(b) The Note shall be subject to prepayment in whole or part without penalty as provided in the form of the Note.

(c) City Council hereby appropriates the Note proceeds for funding of the City's pension obligations.

Section 5. The Note, subject to any technical corrections or modifications approved by Counsel, shall be in the following form:

**CITY OF ALLENTOWN
LEHIGH COUNTY
COMMONWEALTH OF PENNSYLVANIA
UNITED STATES OF AMERICA
NOTE, SERIES AA OF 2013 ("Note")**

DATED December 4, 2013

MATURITY DATE

\$150,000,000

THE CITY OF ALLENTOWN, Lehigh County, (the "City"), for value received and intending to be legally bound, hereby acknowledges itself indebted and promises to pay to the Registered Owner hereof (as identified on the attached Registration Form incorporated herein by reference) the principal sum of ONE HUNDRED AND FIFTY MILLION DOLLARS (\$150,000,000), together with interest thereon, at the stated interest rate not to exceed 3.500%, per actual/360 day year, on the maturity date hereof, upon presentation and surrender of this Note, in lawful money of the United States of America in immediately available funds.

This Note is subject to prepayment without penalty at the option of the City, in full at any time, upon payment of the principal amount and accrued interest, if any, to the date of such prepayment, or in part upon any payment date, and thereafter interest shall accrue only upon the remaining unpaid principal. This Note is the Series AA of 2013 Note authorized and issued in the principal amount of \$150,000,000 (the "Note").

This Note is issued for the purpose of providing funds for current operating expenses of future years.

To the extent that the Note is registered in the name of Depository Trust Company ("DTC") or its nominee, Cede & Co., redemption notices shall be sent to DTC or its nominee. If less than all the Note within a maturity are to be redeemed, which Note of such maturity are to be redeemed and which beneficial owners shall have their ownership interest in the Note redeemed shall be determined by DTC and the direct and indirect participants in DTC in accordance with their customary practices. If the Note is no longer registered in the name of DTC or its nominee, Note to be redeemed in the event of a partial redemption shall be determined by lot by the Paying Agent.

All acts, conditions and things required to be done or performed precedent to and in the issuance of this Note or in the creation of the obligation of which this Note is evidence have been done and performed as required by law.

IN WITNESS WHEREOF, the City has caused this Note to be executed in its name and on its behalf by the signature of the Mayor and its seal to be hereunto impressed, and to be duly attested by the signature of the City Clerk or Assistant City Clerk this 4th day of December, 2013.

CITY OF ALLENTOWN
Lehigh County, Pennsylvania

Attest: _____
(Assistant) City Clerk

By: _____
Authorized Officer

(SEAL)

CERTIFICATE OF REGISTRATION

It is hereby certified that the foregoing Note (a) is the Series AA of 2013 of the City of Allentown, and (b) is registered as to principal and interest as follows:

	<u>Registered Owner</u>	<u>Address of Registered Owner</u>	<u>Date of Registration and Authentication</u>
_____	Restricted Pension Obligation Account	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

CERTIFICATE OF AUTHENTICATION

It is certified that:

- (i) This Note is the Note described in the Ordinance dated December 4, 2013.

BY: _____
Authorized Officer

Authentication Date

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, _____ (the "Transferor")
hereby sells, assigns and transfers unto _____ (the "Transferee")

Name

Address

Social Security or Federal Employer Identification No. _____ the within Note and all
rights thereunder, and hereby irrevocably constitutes and appoints _____
_____ as attorney to transfer the within Note on the books
kept for registration thereof, with full power of substitution in the premises.

Date:

NOTICE: No transfer will be made in the name of the Transferee, unless the signature(s) to this assignment correspond(s) with the name(s) appearing upon the face of the within Note in every particular, without alteration or enlargement or any change whatever and the Social Security or Federal Employer Identification Number of the Transferee is supplied. If the Transferee is a trust, the names and Social Security or Federal Employer Identification Numbers of the settlor and beneficiaries of the trust, the Federal Employer Identification Numbers and date of the trust and the name of the trustee shall be supplied.

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed
by a member firm of a national or regional
stock exchange or a commercial bank or a
trust company.

Section 6. The Note shall be executed in the name of and in behalf of this City by the signatures or facsimile signatures of the Mayor and the President of the Council of the City, and the official seal of this City or a facsimile thereof shall be affixed thereunto, attested by the signature or facsimile signature of the City Clerk.

Section 7. This City covenants to and with the holder or registered owner of the Note, from time to time, pursuant to this Ordinance, that this City shall include the amount of the debt service thereon for each fiscal year of this City in which such sums are payable, in its budget for each such fiscal year, shall appropriate such amounts to the payment of such debt service, and duly and punctually shall pay or shall cause to be paid the principal of the Note and the interest thereon on the dates and place and in the manner stated therein, according to the true intent and meaning thereof; and, for such budgeting, appropriation and payment, this City shall and does pledge, irrevocably, its full faith, credit and taxing power. The foregoing covenant of this City shall be enforceable specifically.

Section 8. Proper officers of this City are authorized and directed to deliver the Note, upon execution thereof as provided for herein.

Section 9. In the event that any provision, section, sentence, clause or part of this Ordinance shall be held invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

Section 10. All ordinances or parts of ordinances, insofar as the same shall be inconsistent herewith, shall be and the same expressly are repealed.

Section 11. This Ordinance shall be effective immediately upon enactment.

DULY ENACTED this 4th day of December, 2013, by the Council of City of Allentown, Lehigh County, Pennsylvania, in lawful session duly assembled.

(Vice) President of Council

ATTEST:

City Clerk

[SEAL]

Executed and approved by me this 4th day of December, 2013.

Mayor of City of Allentown
Lehigh County, Pennsylvania

I hereby certify that the foregoing Ordinance was passed by the City Council and signed by his Honor the Mayor on December 4, 2013.

City Clerk

CERTIFICATION

I hereby certify that the foregoing document is a true and correct copy of Ordinance passed by Allentown City Council on December 4, 2013.

Certified this 4th day of December, 2013.

City Clerk

	Yea	Nay
Joe Davis	X	
Jeanette Eichenwald		
Jeff Glazier	X	
Cynthia Y. Mota	X	
Ray O'Connell, VP		
Peter G. Schweyer	X	
Julio A. Guridy, Pres.	X	
TOTAL	5	0

I hereby certify that the foregoing Ordinance was passed by City Council on December 4, 2013 and signed by the Mayor on December 5, 2013.

Michael P. Hec

CITY CLERK