

WEST MIFFLIN SANITARY SEWER MUNICIPAL AUTHORITY

ALLEGHENY COUNTY, PENNSYLVANIA

NOTE RESOLUTION

RESOLUTION NO. 97-06

AUTHORIZING THE EXECUTION, DELIVERY AND ISSUANCE OF \$750,000.00 SEWER REVENUE NOTE, SERIES OF 2006; ACCEPTING THE PROPOSAL FOR THE PURCHASE OF THE NOTE; SPECIFYING THE PURPOSES FOR WHICH THE NOTE IS ISSUED; AUTHORIZING THE DEPOSIT OF THE PROCEEDS OF THE NOTE IN ACCORDANCE WITH THE PROVISIONS OF THE RESOLUTION; STATING THE PRINCIPAL, INTEREST RATE, MATURITY DATE AND PROVISIONS FOR PAYMENT AND REDEMPTION OF THE NOTE; AUTHORIZING THE EXECUTION AND DELIVERY OF THE OFFICERS CERTIFICATE; REQUESTING THE OPINION OF COUNSEL AND OTHER NECESSARY ACTIONS.

WHEREAS, the West Mifflin Sanitary Sewer Municipal Authority (the "Authority") was created pursuant to the provisions of the Municipality Authorities Act, as amended, for the purpose, among others, of acquiring, owning, financing and constructing a sewage treatment and distribution system (the "Sewage System") in a portion of Allegheny County, Pennsylvania; and

WHEREAS, the Pennsylvania Infrastructure Investment Authority ("Pennvest") has, made a loan to the Authority in the amount of \$404,041.00, together with a grant in the amount of \$447,109.00 for the design and construction of improvements to the Sewer System ("Project"), and such monies are released to the Authority from time to time pursuant to requisitions; and

WHEREAS, in order to provide a ready source of interim funds required for the Project, to allow for the payment of invoices on a quicker basis, it will be necessary for the Authority to issue a \$750,000 Sewer Revenue Note (Revolving Line of Credit) Series of 2006 (the "Note"); and

WHEREAS, PNC Bank, National Association, (the "Purchaser") has agreed to purchase the Note, pursuant to a PNC Bank Commitment Letter dated June 30, 2006 (the "Proposal"); and

NOW, THEREFORE, BE IT RESOLVED by the West Mifflin Sanitary Sewer Municipal Authority as follows:

1. The Project and financing by the Authority, including payment of the costs of the issuance of the Note are approved. The principal purpose of the issuance is to secure a revolving line of credit to fund eligible Pennvest project costs that are scheduled for reimbursement from Pennvest for the Project and to pay the costs of issuance of the Note.

2. The Authority hereby authorizes the issuance of its Note, to be designated the \$750,000 Sewer Revenue Note (Revolving Line of Credit) Series of 2006, pursuant to the terms of a Loan Agreement. The Note will be fully registered, will be entitled to the security provided in the Loan Agreement and will be paid out of the receipts and revenues of the Authority pledged under the Loan Agreement to the extent provided therein.

3. The Authority authorizes the pledge and assignment of the Sewer Revenues, Receipts and Pennvest loan proceeds to the Purchaser for the payment of the Note and authorizes and directs the Chairman or Vice Chairman to execute and deliver such additional security, guaranty, and closing documents, upon the request of the Purchaser, as necessary or proper for the issuance of the Note.

4. The Note is a current interest paying Note. The Note shall be issued in fully registered form and will be dated the date of its issuance. The Note will bear interest at a variable rate. The Note will mature twelve months after its issuance. After due and sufficient deliberation, the Authority hereby determines that a private sale of the Note pursuant to the Proposal is in the best financial interest of the Authority.

5. The principal of the Note shall be payable in lawful money of the United States of America at the designated office of the Purchaser, or at the designated office of any additional or appointed alternate or successor paying agent or agents (the "Paying Agent"). Interest on the Note shall be payable in the manner provided in the form of the Note hereinafter set forth. The Paying Agent shall have no obligations with respect to this Resolution other than those duties specifically mentioned herein and shall have the right to act upon any document or written request believed by it to be genuine and shall have no duty to inquire into the authenticity of any signature.

6. The Note shall be executed by the manual or facsimile signature of the Chairman or Vice Chairman of the Authority and the Secretary, and shall have the actual or a facsimile of the corporate seal of the Authority affixed thereto, duly attested by the manual or facsimile signature of the Secretary, and the said officers are hereby authorized to execute the Note in such manner. The Chairman or Vice Chairman of the Authority and the Secretary are authorized and directed to deliver or cause to be delivered the Note to the Purchaser.

7. The form of the Note shall be substantially as follows in Exhibit A.

8. The acceptance of the Proposal for the purchase of the Note, which sets forth the terms of the Note, is hereby ratified and approved. The Note is authorized to be sold to the Purchaser on the terms set forth in the Proposal. The Chairman, Vice Chairman and/or Secretary are hereby authorized to do all things necessary and proper for the issuance of the Note.

9. The Authority covenants with the owners of the Note that it will make no use of the proceeds of the Note at any time during the term thereof which, if such use had been reasonably expected on the date of issue of the Note, would have caused the Note to be an "arbitrage bond" within the meaning of Section 148 of the United States Internal Revenue Code of 1986, as amended (the "Code"), as interpreted by the regulations applicable to the Note, as promulgated for such purpose by the United State Treasury Department.

10. The Authority agrees to take all actions necessary to preserve and maintain the tax exempt status of the Note and of the interest thereon, under all laws currently in effect and that may become effective. The Authority covenants that it will not intentionally use any portion of the proceeds of the Note to acquire, or to replace funds used directly or indirectly to acquire, investment property with a yield materially higher than the yield on the Note, as prohibited by Section 148(a) of the Code, except for permitted investments for temporary periods as authorized by Section 148(c) of the Code. The Authority covenants to expend the proceeds of the Note within the temporary periods prescribed by Section 148(c) of the Code and the regulations thereunder. The Authority covenants to rebate to the United States all arbitrage profits earned on the proceeds of the Note if required by Section 148(f) of the Code. For purposes of this covenant, "arbitrage profits" means (i) the excess of (A) the amount earned on any proceeds of the Note invested in any investment property (excluding tax-exempt Note) over (B) the amount which would have been earned if such investments were invested at a rate equal to the yield on the Note, and (ii) any income attributable to such excess.

The undersigned, Chairman or Vice Chairman and Secretary or Assistant Secretary of West Mifflin Sanitary Sewer Municipal Authority do hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by the Authority at a meeting duly held on October 5, 2006.

(SEAL)

ATTEST:

AUTHORITY

WEST MIFFLIN SANITARY SEWER
MUNICIPAL

Leah Mangino, Secretary

George Miklos, Chairman

EXHIBIT A - Form of the Note

**SEWER REVENUE NOTE
(REVOLVING LINE OF CREDIT)
SERIES OF 2006**

Principal Amount

Maturity Date

\$750,000.00
2006

FOR VALUE RECEIVED, WEST MIFFLIN SANITARY SEWER MUNICIPAL AUTHORITY (the "Authority"), with an address of 1302 Lower Bull Run Road, West Mifflin, PA 15122, promises to pay to the order of PNC BANK, NATIONAL ASSOCIATION (the "Bank"), in lawful money of the United States of America in immediately available funds at its offices located at 8500 McKnight Road, Pittsburgh, PA 15237, or at such other location as the Bank may designate from time to time, the principal sum of SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00) or such lesser amount as may be advanced to or for the benefit of the Authority hereunder, together with interest accruing on the outstanding principal balance from the date hereof, as provided below:

1. **Rate of Interest.** Amounts outstanding under this Note will bear interest at a rate per annum which is at all times equal to sixty percent (60%) of the Prime Rate of the Bank, as such Prime Rate changes from time to time, on a monthly basis (the "Loan Rate"). Interest will be calculated on the basis of a year of 360 days for the actual number of days in each interest period. As used herein, "Prime Rate" shall mean the rate publicly announced by the Bank from time to time as its prime rate. The Prime Rate is not tied to any external rate or index and does not necessarily reflect the lowest rate of interest actually charged by the Bank to any particular class or category of customers. If and when the Prime Rate changes, the rate of interest on this Note will change automatically without notice to the Authority, effective on the date of any such change. In no event will the rate of interest hereunder exceed the maximum rate allowed by law.

This Note is issued by the Authority in favor of the Bank on the assumption that interest paid thereon is excludable from the gross income of the registered owner hereof for Federal income tax purposes. If interest on this Note shall be declared by the Internal Revenue Service or an agent thereof to be, or shall otherwise be determined or required to be includable in the income of the Bank for purposes of Federal income taxation, including pursuant to any amendment to the Internal Revenue Code of 1986, as amended, the indebtedness evidenced hereby shall thereafter bear interest at an annual rate (the "Taxable Rate") which shall be equal to the Prime Rate (but in no event more than sixteen percent (16%) per annum) such Taxable Rate to change as of the dates of changes in the Prime Rate without notice to the Authority, and the payment set forth herein shall be increased accordingly; the Authority will pay to the Bank on demand the difference between the amount of interest which the Bank would have received in interest at the Taxable Rate if the indebtedness evidenced by this Note had borne interest at the Taxable Rate during the entire period that interest on this Note is so declared, determined or required to be taxable, together with such penalties and interest, if any, due and payable because of non-payment of Federal income taxation, less interest paid at the Loan Rate, notwithstanding that the indebtedness evidenced by this Note may have been paid in full prior to such declaration or determination. In the event of any such declaration or determination, the Bank shall promptly give written notice of the same to the Authority who shall have the privilege of contesting such declaration or determination in the name of the Bank by any available administrative or judicial proceedings, provided that it does so at its own expenses and pays all costs, interest and/or penalties resulting therefrom. In the event that such declaration or determination is reversed pursuant to the entry of a final determination, order, ruling or decree, all amounts theretofore paid to the Bank in excess of the Loan Rate shall be promptly refunded to the Authority and the rate of interest shall revert to the Loan Rate.

2. **Advances.** The Authority may borrow, repay and re-borrow hereunder until the Maturity Date, subject to the terms and conditions of this Note and the Loan Documents (as defined herein). The "Maturity Date" shall mean _____, 2006 or such later date as may be designated by the Bank by written notice from the Bank to the Authority. The Authority acknowledges and agrees that in no event will the Bank be under any obligation to extend or renew this Note beyond the Maturity Date. In no event shall the aggregate unpaid principal amount of advances under this Note exceed the principal amount of this Note.

3. **Advance Procedures.** A request for advance must be made in writing and accompanied by Certificates of approval from the Authority and ATS – Chester Engineers, as the Authority's Engineer. The Bank shall be entitled to conclusively rely upon the authority of any person providing such request or the accompanying documentation. The Authority hereby indemnifies and holds the Bank harmless from and against any and all damages, losses, liabilities, costs and expenses (including reasonable attorney's fees and expenses) which may arise or be created by the acceptance of such requests or making such advances. The Bank will enter on its books and records, which entry when made will be presumed correct, the date and amount of each advance, as well as the date and amount of each payment made by the Authority.

4. **Payment Terms.** Accrued interest will be due and payable monthly on the _____ day of each month, commencing on _____, 2006 and continuing in the same manner at and until the Maturity Date, on which date the entire principal amount and accrued but unpaid interest shall be due and payable. In addition, within five (5) business days of the receipt by the Authority of any Project related reimbursements from The Pennsylvania Infrastructure

Investment Authority ("Pennvest"), the Authority shall make a mandatory prepayment of principal in the amount of the Pennvest reimbursement.

If any payment under this Note shall become due on a Saturday, Sunday or public holiday under the laws of the Commonwealth of Pennsylvania, such payment shall be made on the next succeeding business day and such extension of time shall be included in computing interest in connection with such payment. The Authority hereby authorizes the Bank to charge the Authority's deposit account at the Bank established under the Loan Agreement for any payment when due hereunder. Payment received will be applied to charges, fees and expenses (including attorneys' fees), accrued interest and principal in any order the Bank may choose, in its sole discretion.

5. **Late Payments; Default Rate.** If the Authority fails to make any payment of principal, interest or other amount coming due pursuant to the provisions of this Note within 15 calendar days of the date due and payable, the Authority also shall pay to the Bank a late charge equal to the lesser of five percent (5%) of the amount of such payment or \$100.00 (the "Late Charge"). Such fifteen-day period shall not be construed in any way to extend the due date of any such payment. Upon maturity, whether by acceleration, demand or otherwise, and at the Bank's option upon the occurrence of any Event of Default (as hereinafter defined) and during the continuance thereof, this Note shall bear interest at a rate per annum (based on a year of 360 days and actual days elapsed) which shall be equal to the Loan Rate plus three percent (3%) but not more than the maximum rate allowed by law (the "Default Rate"). The Default Rate shall continue to apply whether or not judgment shall be entered on this Note. Both the late charge and the Default Rate are imposed as liquidated damages for the purposes of defraying the Bank's expenses incident to the handling of delinquent payments, but are in addition to, and not in lieu of, the Bank's exercise of any rights and remedies hereunder, under the other Loan Documents or under applicable law, and any fees and expenses of any agents or attorneys which the Bank may employ. In addition, the Default Rate reflects the increased credit risk to the Bank of carrying a loan that is in default. The Authority agrees that the Late Charge and Default Rate are reasonable forecasts of just compensation for anticipated and actual harm incurred by the Bank, and that the actual harm incurred by the Bank cannot be estimated with certainty and without difficulty.

6. **Prepayment.** The indebtedness evidenced by this Note may be prepaid in whole or in part at any time without penalty.

7. **Other Loan Documents.** This Note is issued in connection with a Loan Agreement between the Authority and the Bank dated on or before the date hereof, and the other agreements and documents executed in connection therewith or referred to therein, the terms of which are incorporated herein by reference (as amended, modified or renewed from time to time, collectively the "Loan Documents"), and is secured by the property described in the Loan Documents (if any) and by such other collateral as previously may have been or may in the future be granted to the Bank to secure this Note. All capitalized terms not otherwise defined in this Note are used herein with the same meaning as used and defined in the Loan

Documents, unless the context otherwise requires.

8. **Events of Default.** The occurrence of any of the following events will be deemed to be an “Event of Default” under this Note: (i) the nonpayment of any principal, interest or other indebtedness under this Note for a period in excess of fifteen (15) days; (ii) the occurrence of any event of default or default and the lapse of any notice or cure period under any Loan Document or any other debt, liability or obligation to the Bank of the Authority; (iii) the filing by or against the Authority of any proceeding in bankruptcy, receivership, insolvency, reorganization, liquidation, conservatorship or similar proceeding (and, in the case of any such proceeding instituted against the Authority, such proceeding is not dismissed or stayed within 30 days of the commencement thereof, provided that the Bank shall not be obligated to advance additional funds during such period); (iv) any assignment by the Authority for the benefit of creditors, or any levy, garnishment, attachment or similar proceeding is instituted against any property of the Authority; (v) the commencement of any foreclosure or forfeiture proceeding, or the execution or attachment against any collateral securing the obligations of the Authority to the Bank; (vi) the entry of a final judgment against the Authority and the failure of the Authority to discharge the judgment within ten days of the entry thereof; (vii) any material adverse change in the Authority’s business, assets, operations, financial condition or results of operations; (ix) the Authority ceases operation as a going concern; (x) any representation or warranty made by the Authority to the Bank in any Loan Document, or any other documents now or in the future evidencing or securing the obligations of the Authority to the Bank, is false, erroneous or misleading in any material respect; or (xi) the Authority’s failure to observe or perform any covenant or other agreement with the Bank contained in any Loan Document or any other documents now or in the future evidencing or securing the obligations of the Authority to the Bank.

Upon the occurrence of an Event of Default: (a) the Bank shall be under no further obligation to make advances hereunder; (b) if an Event of Default specified in clause (iii) or (iv) above shall occur, the outstanding principal balance and accrued interest hereunder together with any additional amounts payable hereunder shall be immediately due and payable without demand and without notice of any kind, at the Bank's option; (d) at the Bank’s option, this Note will bear interest at the Default Rate from the date of the occurrence of the Event of Default; and (e) the Bank may exercise from time to time any of the rights and remedies available under the Loan Documents or under applicable law.

9. **Right of Setoff.** In addition to all liens upon, and rights of setoff against, the Authority’s money, securities or other property given to the Bank by law, the Bank shall have, with respect to the Authority’s obligations to the Bank under this Note and to the extent permitted by law, a contractual possessory security interest in and a contractual right of setoff against, and the Authority hereby assigns, conveys, delivers, pledges and transfers to the Bank all of the Authority’s right, title and interest in and to, all of the Authority’s deposits, moneys, securities and other property now or hereafter in the possession of or on deposit with, or in transit to, the Bank or any other direct or indirect subsidiary of the PNC Financial Services Group, Inc., whether held in a general or special account or deposit, whether held jointly with someone else, or whether held for safekeeping or otherwise, excluding, however, all IRA,

Keogh, and trust accounts. Every such security interest and right of setoff may be exercised without demand upon or notice to the Authority. Every such right of setoff shall be deemed to have been exercised immediately upon the occurrence of an Event of Default hereunder without any action of the Bank, although the Bank may enter such setoff on its books and records at a later time.

10. **Miscellaneous**. All notices, demands, requests, consents, approvals and other communications required or permitted hereunder must be in writing and will be effective upon receipt. Such notices and other communications may be hand-delivered, sent by facsimile transmission with confirmation of delivery and a copy sent by first-class mail, or sent by nationally recognized overnight courier service, to the addresses for the Bank and the Authority set forth above or to such other address as either may give to the other in writing for such purpose. No delay or omission on the Bank's part to exercise any right or power arising hereunder will impair any such right or power or be considered a waiver of any such right or power, nor will the Bank's action or inaction impair any such right or power. No modification, amendment or waiver of any provision of this Note or consent to any departure by the Authority there from will be effective unless made in a writing signed by the Bank. The Authority agrees to pay on demand, to the extent permitted by law, all costs and expenses incurred by the Bank in the enforcement of its rights in this Note and in any security therefore, including without limitation reasonable fees and expenses of the Bank's counsel. If any provision of this Note is found to be invalid by a court, all the other provisions of this Note will remain in full force and effect. The Authority hereby forever waives presentment, protest, notice of dishonor and notice of non-payment. The Authority also waives all defenses based on suretyship or impairment of collateral. This Note shall bind the Authority and its heirs, executors, administrators, successors and assigns, and the benefits hereof shall inure to the benefit of the Bank and its successors and assigns; provided, however, that the Authority may not assign this Note in whole or in part without the Bank's written consent and the Bank at any time may assign this Note in whole or in part.

This Note has been delivered to and accepted by the Bank and will be deemed to be made in the Commonwealth of Pennsylvania. THIS NOTE WILL BE INTERPRETED AND THE RIGHTS AND LIABILITIES OF THE BANK AND THE AUTHORITY DETERMINED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA. The Authority hereby irrevocably consents to the exclusive jurisdiction of any state or federal court in the county or judicial district where the Bank's office indicated above is located; provided that nothing contained in this Note will prevent the Bank from bringing any action, enforcing any award or judgment or exercising any right against the Authority individually, against any security or against any property of the Authority within any other county, state or other foreign or domestic jurisdiction. The Authority acknowledges and agrees that the venue provided above is the most convenient forum for both the Bank and the Authority. The Authority waives any objection to venue and any objection based on a more convenient forum in any action instituted under this Note.

This Note is a Qualified Tax-Exempt Obligation within the meanings of Sections 265(b)(3) of the Internal Revenue Code of 1986, as amended.

WAIVER OF JURY TRIAL. THE AUTHORITY IRREVOCABLY WAIVES ANY AND ALL RIGHTS THE AUTHORITY MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE RELATING TO THIS NOTE, ANY DOCUMENTS EXECUTED IN CONNECTION WITH THIS NOTE OR ANY TRANSACTION CONTEMPLATED IN ANY OF SUCH DOCUMENTS. THE AUTHORITY ACKNOWLEDGES THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY.

Authority Initials: WMSSMA

The Authority acknowledges that it has read and understood all provisions of this Note, including the waiver of jury trial, and has been advised by counsel as necessary or appropriate.

WITNESS the due execution hereof as a document under seal, as of the date first written above, with the intent to be legally bound hereby.

(SEAL)

ATTEST:
MUNICIPAL AUTHORITY

WEST MIFFLIN SANITARY SEWER

Leah Mangino, Secretary

George Miklos, Chairman

