

RESOLUTION NO. 8282

A RESOLUTION INTRODUCED BY CITY MANAGER NORTON N. BONAPARTE, JR. AUTHORIZING AND DIRECTING THE ISSUANCE OF TEMPORARY NOTES, SERIES 2010-B (GENERAL IMPROVEMENTS) OF THE CITY OF TOPEKA, KANSAS, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$24,615,000 FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF (i) RENEWING A PORTION OF THE PRINCIPAL AMOUNT OF THE SERIES 2009-B TEMPORARY NOTES OF SAID CITY, DATED OCTOBER 28, 2009, AND (ii) PAY A PORTION OF THE COST OF CERTAIN IMPROVEMENTS IN SAID CITY.

WHEREAS, pursuant to K.S.A. 12-6a01 *et seq.*, as amended, the home rule authority granted to the cities of the State of Kansas by Section 5 of Article 12 of the Kansas Constitution, and Charter Ordinance No. 89 of the City of Topeka, Kansas, (the "City") (Section A12-1 of the Code of the City) and all other provisions of the laws of the State of Kansas applicable thereto, by proceedings duly had and other actions duly and legally taken, the City has approved the following internal improvements (the "Improvements"):

- (a) Drainage Improvement Project No. 15079-00;
- (b) Water Line Improvement Project No. 28642-00;
- (c) Sanitary Sewer Improvement Project No. 40898-01;
- (d) Sanitary Sewer Improvement Project No. 40936-00;
- (e) Sanitary Sewer Improvement Project No. 40945-00;
- (f) Sanitary Sewer Improvement Project No. 40951-01;
- (g) Sanitary Sewer Improvement Project No. 40967-00;
- (h) Sanitary Sewer Improvement Project No. 40970-00;
- (i) Sanitary Sewer Improvement Project No. 40973-00;
- (j) Street Improvement Project No. 60610-02;
- (k) Street Improvement Project No. 60619-00;
- (l) Street Improvement Project No. 60625-00;

- (m) Street Improvement Project No. 60632-01;
- (n) Street Improvement Project No. 60635-01;
- (o) Street Improvement Project No. 60638-00;
- (p) Street Improvement Project No. 60641-00;
- (q) Street Improvement Project No. 60645-00;
- (r) Street Improvement Project No. 60655-00;
- (s) Street Improvement Project No. 70203-00;
- (t) Street Improvement Project No. 70196-02;
- (u) Street Improvement Project No. 70123-01;
- (v) Bridge Improvement Project No. 12045-00
- (w) Bridge Improvement Project No. 12065-00
- (x) Fire Station Improvement Project No. 13153-00;
- (y) Trafficway Improvement Project No. 14134-00;
- (z) Trafficway Improvement Project No. 70209-00
- (aa) Park Improvement Project No. 30284-00;
- (bb) Park Improvement Project No. 30296-00;
- (cc) Park Improvement Project No. 30298-00;
- (dd) Park Improvement Project No. 30301-00; and

WHEREAS, the cost of making the Improvements are to be paid in whole or in part by the issuance of general obligation bonds of the City in the manner provided by law; and

WHEREAS, pursuant to Resolution No. 8208 of the City adopted October 6, 2009, the City has issued its Temporary Notes, Series 2009-B, dated October 28, 2009, aggregating the principal amount of \$24,890,000 and maturing on November 1, 2010, (the "Series 2009-B Notes") to provide funds to finance certain improvements in the City including Projects Nos. 15079-00, 28642-00, 40898-01, 40936-00, 40945-00, 40951-01, 40970-00, 606120-02, 60619-00, 60625-00, 60632-01, 60635-01, 60638-00, 60641-00, 60645-00, 60655-00, 70203-00, 70196-

60 02, 13153-00 and 70123-01; as hereinbefore described (the "2009-B Projects"), and all aspects
61 of said Projects will not be fully completed at the maturity of the Series 2009-B Notes; and

62 **WHEREAS**, it is necessary for the City to provide cash funds to (i) renew a portion of
63 the Series 2009-B Notes issued to provide financing for the 2009-B Projects and (ii) to meet the
64 City's obligations incurred in connection with the Improvements prior to the completion of said
65 work and the issuance of the City's general obligation bonds, and it is desirable and in the
66 interest of the City that such funds be raised by the issuance of temporary notes of the City, said
67 notes to be issued by the City pursuant to the provisions of K.S.A. 10-123, as amended.

68 **NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
69 **CITY OF TOPEKA, KANSAS, AS FOLLOWS:**

70 **Section 1.(a)** For the purpose of providing funds to (i) renew a portion of the Series
71 2009-B Notes issued in connection with the 2009-B Projects as hereinbefore described, and (ii)
72 to pay obligations incurred by the City in acquiring and constructing the Improvements, there
73 shall be issued and are hereby authorized to be issued Temporary Notes, Series 2010-B (General
74 Improvements), of the City, in the principal amount not to exceed \$24,615,000 (the "Notes").
75 The Notes will consist of fully registered notes in the denomination of \$5,000 or any integral
76 multiple thereof. The Notes shall initially be registered in the name of Cede & Co., as nominee
77 of The Depository Trust Company, New York, New York, (along with its successors and
78 assigns, the "Securities Depository") to which payments of principal on the Notes will be made
79 by the Treasurer of the State of Kansas (the "Note Registrar" and "Paying Agent") in lawful
80 money of the United States of America upon presentation of the Notes for payment and
81 cancellation. Individual purchases of Notes will be made in book-entry form only. Purchasers
82 will not receive certificates representing their interest in Notes purchased. It is anticipated that
83 during the term of the Notes, the Securities Depository will make book-entry transfers among
84 those financial institutions (the "Participants") for whom it effects book entry transfers and
85 pledges of securities deposited with it from time to time and receive and transmit payment of
86 principal of and interest on the Notes to the Participants until and unless the Note Registrar

(hereinafter designated) authenticates and delivers Replacement Notes to the beneficial owners as described in subsection (b). The Notes shall be dated September 29, 2010, shall become due on October 1, 2011, and shall bear interest from said date at the rate of two percent (2.00%) per annum. Interest on the Notes shall be payable at the maturity of the Notes on October 1, 2011, (the "Interest Payment Date") to the Registered Owner thereof appearing on the books of the Note Registrar as of the 15th day of the month next preceding the applicable interest payment date (the "Record Date").

(b) (1) If the City determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (C) that the continuation of a book-entry system to the exclusion of any Notes being issued to any registered owner of any of the Notes ("Registered Owner") other than Cede & Co. is no longer in the best interests of the beneficial owners of the Notes, or (2) if the Note Registrar receives written notice from Participants having interests in not less than 50% of the Notes which are outstanding and unpaid, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Notes being issued to any Registered Owner other than Cede & Co. is no longer in the best interests of the beneficial owners of the Notes, then the Note Registrar shall notify the Registered Owners of such determination or such notice and of the availability of certificates to beneficial owners requesting the same, and the Note Registrar shall register in the name of and authenticate and deliver replacement Notes to the beneficial owners or their nominees in principal amounts representing the interest of each, making such adjustment as it may find necessary or appropriate as to accrued interest; provided, that in the case of a determination under (1)(A) or (1)(B) of this subsection (b), the City may, after consultation with the Note Registrar, select a successor securities depository in accordance with subsection (c) hereof to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has

114 possession of at least one Note. Upon the issuance of any replacement Notes ("Replacement
115 Notes"), all references herein to obligations imposed upon or to be performed by the Securities
116 Depository shall be deemed to be imposed upon and performed by the Note Registrar, to the
117 extent applicable with respect to such Replacement Notes. If the Securities Depository resigns
118 and the City is unable to locate a qualified successor of the Securities Depository in accordance
119 with subsection (c) hereof, then the Note Registrar shall authenticate and cause delivery of
120 Replacement Notes to the beneficial owners thereof, as provided herein. The Note Registrar may
121 rely on information from the Securities Depository and its Participants as to the names of the
122 beneficial owners of the Notes. The cost of printing, registration, authentication and delivery of
123 Replacement Notes shall be paid for by the City.

124 (c) In the event the Securities Depository resigns, is unable to properly discharge its
125 responsibilities, or is no longer qualified to act as a securities depository and registered clearing
126 agency under the Securities and Exchange Act of 1934, as amended, the City may appoint a
127 successor Securities Depository, provided the Note Registrar receives written evidence
128 satisfactory to it with respect to the ability of the successor Securities Depository to discharge its
129 responsibilities. Any such successor Securities Depository shall be a securities depository which
130 is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or
131 other applicable statute or regulation that operates a securities depository upon reasonable and
132 customary terms. The Note Registrar upon its receipt of any of the Notes for cancellation shall
133 cause the delivery of such Notes to the successor Securities Depository in appropriate
134 denominations and form as provided herein.

135 (d) The execution and delivery of the Representation Letter to The Depository Trust
136 Company, New York, New York, by the Mayor or Deputy Mayor in the form attached hereto as
137 Exhibit A with such changes, omissions, insertions and revisions as the Mayor or Deputy Mayor
138 shall deem advisable, is hereby authorized, and execution of the Representation Letter by the
139 Mayor or Deputy Mayor shall be conclusive evidence of such approval. The Representation
140 Letter shall set forth certain matters with respect to, among other things, notices, consents and

141 approvals by the owners (both the Registered Owner and beneficial owners) of the Notes and
142 payments of the principal of and interest on the Notes.

143 **Section 2.** The Notes shall contain recitals and be in the form as prescribed by law. The
144 Notes, shall in addition to all other requirements, shall be subject to the terms and conditions of
145 the agreement entitled "Agreement Between Issuer and Agent" by and between the City and the
146 Treasurer of the State of Kansas, as Note Registrar.

147 **Section 3.** The Notes shall be executed by the facsimile or manual signature of the
148 Mayor or Deputy Mayor and City Clerk or Deputy City Clerk and the seal of the City shall be
149 printed or affixed thereon. After such execution and the registration of the Notes by the City
150 Clerk and the Kansas State Treasurer, Topeka, Kansas, hereby designated as both the City's Note
151 Registrar and Paying Agent in connection with the Notes, the Notes shall be countersigned by
152 the City Clerk or Deputy City Clerk and delivered to the Original Purchaser thereof upon receipt
153 of the purchase price thereof, said purchase price to be not less than the principal amount thereof
154 plus accrued interest thereon to the date of delivery. The proceeds of the Notes shall be placed in
155 the City Treasury and applied solely to pay the costs of (i) renewing the Series 2009-B Notes
156 previously issued to finance the 2009-B Projects as hereinbefore described, (ii) the costs of the
157 Improvements and (iii) the costs of issuing the Notes.

158 **Section 4.** The Notes to be issued shall be in substantially the following form:

159
160 UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE
161 OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO
162 ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR
163 PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE
164 & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED
165 REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO
166 SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE
167 OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE THEREOF FOR VALUE OR
168 OTHERWISE BY OR TO ANY PERSON IS WRONGFUL IN AS MUCH AS THE
169 REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.
170

171 **Temporary Note No. R-1**

172 **\$24,615,000**

\$24,615,000

173 UNITED STATES OF AMERICA
174 STATE OF KANSAS
175 COUNTY OF SHAWNEE
176 CITY OF TOPEKA
177 SERIES 2010-B
178 (GENERAL IMPROVEMENTS)
179

180 Rate of Maturity Dated CUSIP NO. _____
181 Interest: 2.00% Date: October 1, 2011 Date: September 29, 2010
182 Registered Owner: Cede & Co.
183 Principal Amount: Twenty-Four Million Six Hundred Fifteen Thousand Dollars
184

185 **KNOW ALL MEN BY THESE PRESENTS:**

186 That the City of Topeka, in the County of Shawnee, State of Kansas, (the "City") for
187 value received acknowledges itself to be indebted to and promises to pay, but solely from the
188 sources hereinafter pledged, to the registered owner identified above, or registered assigns as
189 hereinafter provided, on the maturity date identified above, unless called for redemption and
190 payment prior to such maturity date as hereinafter provided, both the principal amount identified
191 above and in like manner to pay interest on such principal amount from the date of this Note
192 until said principal amount is paid. The Notes will not be subject to redemption prior to maturity.

193 The principal of and interest on this Note shall be payable in lawful money of the United
194 States of America by check or draft at the office of the Treasurer of the State of Kansas, Topeka,
195 Kansas, (the "Note Registrar" and "Paying Agent"), upon presentation of this Note for payment
196 and cancellation. The full faith, credit and resources of the City are hereby pledged for the
197 payment of the principal of and interest on this Note and the issue of which it is a part as the
198 same respectively become due.

199 **THE TERMS AND PROVISIONS OF THIS NOTE ARE CONTINUED ON THE**
200 **REVERSE HEREOF AND SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT**
201 **AS THOUGH FULLY SET FORTH AT THIS PLACE.**

202 It is hereby certified and declared that all acts, conditions, and things required to be done
203 and to exist precedent to and in the issuance of this Note have been properly done and performed
204 and do exist in due and regular form and manner as required by the Constitution and Laws of the
205 State of Kansas; that this Note is negotiable and constitutes a general obligation of the City; that
206 this Note and any outstanding notes and bonds previously issued for the improvement described
207 herein do not exceed the estimated cost and expense of said improvement; and that the total
208 indebtedness of said City, including this series of Notes, does not exceed any constitutional or
209 statutory limitation.

210 **IN WITNESS WHEREOF**, the said City of Topeka, in the State of Kansas, by its
211 Governing Body, has caused this Temporary Note to be signed by its Mayor or Deputy Mayor
212 and attested by its City Clerk, and has caused its corporate seal to be affixed hereto, all as of the
213 29th day of September, 2010.

214
215 ATTEST:

216
217
218 _____
City Clerk

Mayor, City of Topeka, Shawnee County,
Kansas

(SEAL)

This Note shall not be negotiable unless and until countersigned below following registration by the Treasurer of the State of Kansas.

(SEAL)

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is one of the City of Topeka, Kansas, Temporary Notes, Series 2010-B (General Improvements), described in the within mentioned Resolution.

Registration Date: _____.

OFFICE OF THE STATE TREASURER
Topeka, Kansas,
As Note Registrar and Paying Agent

I.D. No. _____

By _____

CITY CLERK'S CERTIFICATE

STATE OF KANSAS, COUNTY OF SHAWNEE, SS:

I, the undersigned, City Clerk of the City of Topeka, Kansas, do hereby certify that the within Temporary Note of the City of Topeka, Kansas, was duly registered in my office according to law, and that the signatures thereto are genuine.

WITNESS My Hand and Official Seal as of this 29th day of September, 2010.

(SEAL)

City Clerk of the City of Topeka,
Shawnee County, Kansas

STATE TREASURER'S CERTIFICATE

STATE OF KANSAS, COUNTY OF SHAWNEE, SS:

I, DENNIS MCKINNEY, Treasurer of the State of Kansas, do hereby certify that a full and complete transcript of the proceedings leading up to the issuance of this Temporary Note has been filed in my office and that this Note has been registered in my office according to law this _____ day of September, 2010.

WITNESS My Hand and Official Seal.

DENNIS MCKINNEY

Treasurer of the State of Kansas

BY: _____

(SEAL)

State Treasurer

NOTE ASSIGNMENT

FOR VALUE RECEIVED, the undersigned does (do) hereby sell, assign and transfer to

(Note Assignment)

(Social Security or Taxpayer Identifying No.)

the Temporary Note to which this assignment is affixed in the outstanding principal amount of \$_____ standing in the name of undersigned on the books of the Treasurer of the State of Kansas, Topeka, Kansas, the Note Registrar. The undersigned does (do) hereby irrevocably constitute and appoint _____ as attorney to transfer said Note on the books of the Note Registrar with full power of substitution in the premises.

Dated _____

Name

Social Security or Taxpayer Identifying No.

Signature (Sign Here Exactly as
Name(s) Appear on Face of Certificate)

Face of Certificate Signature Guaranteed By:

(Name of Eligible Guarantor Institution as
defined by SEC Rule 17Ad-15 (17CFR
240.17 Ad-15)

By: _____

FURTHER TERMS AND CONDITIONS

This Note is one of a duly authorized series of Temporary Notes aggregating the principal amount of \$24,615,000 (the "Notes") issued by the City to finance, on an interim basis, the construction of certain improvements, heretofore duly authorized by the City, which are to be paid for either in whole or in part by the issuance of bonds of the City. This Note and the series of which it is a part are issued by the City to pay the cost of such improvements until money for

311 such purpose and for the payment of this Note with accrued interest, if any, thereon can be raised
312 by the City by the sale and issuance of its general obligation bonds. This Note and the series of
313 which it is a part are issued by the authority of and in full compliance with the provisions,
314 restrictions and limitations of Resolution No. 8282 of the City (the "Resolution"), the
315 Constitution and Laws of the State of Kansas, including Article 12, Section 5 of the Constitution
316 to the State of Kansas, K.S.A. 10-101 to 125, inclusive, K.S.A. 12-6a01 *et seq.*, as amended, and
317 Charter Ordinance No. 89 of the City (Section A12-1 of the Code of the City) and all acts
318 amendatory thereof and supplemental thereto.

319 The Notes are being issued by means of a book-entry system with no physical
320 distribution of certificates to be made except as provided in the Resolution. One Note certificate
321 with respect to each date on which the Notes are stated to mature, registered in the nominee
322 name of the securities depository named in the Resolution, together with its successors and
323 assigns (the "Securities Depository"), is being issued. The book-entry system will evidence
324 positions held in the Notes by the Securities Depository's participants, beneficial ownership of
325 the Notes in authorized denominations being evidenced in the records of such participants.
326 Transfers of ownership shall be effected on the records of the Securities Depository and its
327 participants pursuant to the rules and procedures established by the Securities Depository and its
328 participants. The City will recognize the Securities Depository nominee, while the registered
329 owner of this Note, as the owner of this Note for all purposes, including (i) payments of
330 principal of and interest on this Note, (ii) notices and (iii) voting. Transfers of principal and
331 interest payments to participants of the Securities Depository, and transfers of principal and
332 interest payments to beneficial owners of the Notes by participants of the Securities Depository
333 will be the responsibility of such participants and other nominees of such beneficial owners.
334 The City and the Paying Agent will not be responsible or liable for such transfers of payments or
335 for maintaining, supervising or reviewing the records maintained by the Securities Depository,
336 the Securities Depository nominee, its participants or persons acting through such participants.
337 While the Securities Depository nominee is the registered owner of this Note, notwithstanding
338 the provision hereinabove contained, payments of principal of and interest on this Note shall be
339 made in accordance with existing arrangements among the City, its Paying Agent and the
340 Securities Depository.

341 **EXCEPT AS OTHERWISE PROVIDED IN THE RESOLUTION, THIS NOTE**
342 **MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER**
343 **NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR**
344 **SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES**
345 **DEPOSITORY.** The City may deem and treat the person in whose name this Note is registered
346 as the absolute owner hereof for the purpose of receiving payment of the principal hereof and
347 interest due hereon and for all other purposes. This Note is transferable by the registered owner
348 hereof in person or by his attorney duly authorized in writing at the office of the Note Registrar
349 upon receipt by the Note Registrar of a duplicate original counterpart of the document by which
350 the assignment or reassignment is made, disclosing the name and address of each such assignee.
351 Upon receipt of such notice of assignment, the Paying Agent agrees to make all payments to the
352 assignee designated in the assignment. The City shall pay out of the proceeds of the Notes, or
353 from other lawfully available funds, all costs incurred in connection with the issuance, transfer,
354 exchange, redemption or payment of the Notes except (a) fees and expenses in connection with
355 the replacement of any of the Notes mutilated, stolen, lost or destroyed or (b) any tax or other
356 governmental charge imposed in relation to the transfer, exchange or payment of the Notes.

Section 5. That the Notes shall be issued and sold to Citigroup, New York, New York, in accordance with both the Note Bid Form (the "Note Bid Form") between such Original Purchaser and the City, the execution of which Note Bid Form is authorized hereby and by the other terms and conditions of this Resolution.

Section 6. That the City covenants and certifies to and for the benefit of the Owners of the Notes from time to time outstanding that so long as any of the Notes remain outstanding, moneys on deposit in any fund or account in connection with the Notes, whether or not such moneys were derived from the proceeds of the sale of the Notes or from any other sources, will not be used in a manner which will cause the Notes to be classified as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). Pursuant to such covenant, the City shall, to the extent permitted by law, comply throughout the term of the issue of the Notes and thereafter with the requirements of Section 148 of the Code including, but not limited to, the rebate of certain amounts, if any, to the United States.

Section 7. That the City covenants to take all action necessary in order to maintain the exclusion under Section 103 of the Code of the interest on the Notes from gross income for federal income tax purposes.

Section 8. That the forms of the *Preliminary Official Statement* and the *Official Statement*, both of which will be dated as of the date set forth thereon, all in the form presented at the meeting at which this Resolution is adopted, are hereby approved, ratified and confirmed, and the execution, circulation and distribution thereof are hereby approved, ratified and confirmed for and on behalf of the City, in substantially the form presented at this meeting.

Section 9. That the City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate attached to the Final Certificate of the City included in the transcript of proceedings regarding the Notes. Notwithstanding any other provision of this Resolution, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an event of default of the City's obligations either under this

Resolution or in connection with the Notes; provided, however, any owner of the Notes may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section.

ADOPTED by the Governing Body of the City of Topeka, Kansas, this 31st day of August, 2010.

CITY OF TOPEKA, KANSAS

(SEAL)

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

I, BRENDA YOUNGER, City Clerk of the City of Topeka, Shawnee County, Kansas, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. 8282 adopted and approved by the governing body of the City on August 31, 2010.

(SEAL)

Brenda Younger, City Clerk

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EXHIBIT A

LETTER OF REPRESENTATIONS

(ATTACHED)