RESOLUTION NO. 8462

A RESOLUTION introduced by City Manager Jim Colson, authorizing the City of
Topeka’s conveyance of ownership to the project to Hill’s Pet
Nutrition, Inc.

WHEREAS, the City of Topeka, Kansas, (the "City") has pursuant to both K.S.A. 12-
1740 to 12-1749(d), both inclusive, as amended, (the "Act") and its Ordinance No. 17839 passed
and approved May 28, 2002, and published as required by law, (the "Ordinance") issued its
Taxable Industrial Revenue Bonds, Series B2002 (Hill’s Project) dated June 1, 2002, in the
aggregate principal amount of $15,000,000 (the "Bonds"); and

WHEREAS, the proceeds of the Bonds financed the cost of acquiring, constructing, and
installing certain equipment and improvements as described in the attached Exhibit “A” (the
"Project") which was leased to Hill’s Pet Nutrition, Inc., a Delaware corporation, (the "Tenant")
pursuant to the terms and conditions of a Lease Agreement dated as of June 1, 2002, (the
"Lease") by and between the City as landlord thereunder and the Tenant, all pursuant to the
Ordinance; and

WHEREAS, pursuant to the terms and conditions of an Indenture of Trust dated as of
June 1, 2002, (the "Indenture") securing the Bonds, the City appointed The Commerce Trust
Company, Kansas City, Missouri, as trustee in connection with the Bonds (the "Trustee"); and

WHEREAS, the Trustee has certified to the City that either all of the outstanding Bonds
have been paid and delivered to the Trustee for cancellation or provisions for the payment of
such outstanding Bonds have been made in accordance with the requirements of the Indenture
and that in accordance with the Indenture all of the outstanding Bonds have been so cancelled
and, as such, are in accordance with Section 1301 of the Indenture deemed paid and discharged
and the pledge of the Project and the revenues under the Indenture and all other rights granted
thereby have ceased and are of no further force and/or effect; and

WHEREAS, the lien of the Bonds having been paid and discharged, the Tenant has
notified the City that it wishes to exercise its option to purchase the Project and, in notifying the
City of its wish to exercise its option pursuant to the Lease, it further requests that the City waive
its right to the requirement contained in Section 17.1 of the Lease that Tenant's notice be given at least thirty (30) days prior to the date of the actual closing (the "Closing Date") nor later of any such transfer of the City's interest in the Project to Tenant in accordance with the remaining terms and conditions of Article XVII of the Lease; and

WHEREAS, the City is authorized to waive its rights under the Lease to such prior notice as described in the immediately preceding recital to this Resolution; and

WHEREAS, the Trustee having advised the City that the Tenant has both fully satisfied the Lease and that it has tendered the full purchase price thereunder for the Project, the City is willing to execute and deliver to Tenant its Bill of Sale conveying the City interests in and to the Project to Tenant, subject to the provisions of Section 17.2 of the Lease.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, SHAWNEE COUNTY, KANSAS, AS FOLLOWS:

Section 1. That in consideration of the recitals contained herein the City hereby waives its right to the requirement contained in Section 17.1 of the Lease that Tenant provide the City with notice given at least thirty (30) days prior to the Closing Date of its intent to exercise its option under the Lease to purchase the Project.

Section 2. That the Mayor or Deputy Mayor are hereby authorized to execute (and the City Clerk or Deputy City Clerk are hereby authorized to both attest any such signature and seal) such bill of sale, instruments and any other documents necessary to convey and transfer ownership of the Project to Tenant in accordance with Article XVII of the Lease.

Section 3. That this Resolution shall be of force and effect immediately upon its adoption and approval.
ADOPTED AND APPROVED by the governing body of the City of Topeka, Kansas, this 28th day of August, 2012.

CITY OF TOPEKA, KANSAS

____________________________
William W. Bunten, Mayor

ATTEST:

________________________
Brenda Younger, City Clerk
EXHIBIT A

PROPERTY SUBJECT TO LEASE

The personal property and fixtures hereinafter described and located on the hereinafter described real estate.

The Property Subject to Lease is presently located on the following described real estate (which was not acquired with the proceeds of the Series B2002 Bonds and, as such real property is not pledged and assigned to the Trustee to secure the payment of the principal of, premium, if any, and interest on the Series B2002 Bonds, to-wit:

Beginning 5 feet NE of SE Corner Lot 82, Jefferson Street, Crane S. Addition, thus northwesterly 254 feet S 10 feet SW 77 feet W 24 feet SW 80 feet SW 164 feet N 22 feet SW 175 feet S 10 feet W 392 feet SE 64 feet E 100 feet S 46 feet W 100 feet SW 110 feet W 130 feet S 230 feet W, Section 29, Township 11, Range 16, City of Topeka, Shawnee County, Kansas, to-wit:

Description

Waste Water Pretreatment Facility Upgrade
Switched Ethernet Capability
Processing Room Simplification II
Canned Products
Processing and Packaging Equipment
Ingredients Capacity
Heat Exchanger
Replace Plant Floor SPC System
Hydrostat Cooling
Security Improvements
Filler Upgrade
Viscosity Analyzer
Shop Floor Reporting
Dock Locks
SAP Bar Coding
Dry Mix Automation
Boiler