

RESOLUTION NO. 7883

A RESOLUTION INTRODUCED BY CITY MANAGER NORTON N. BONAPARTE, JR. AUTHORIZING AND DIRECTING THE ISSUANCE OF TEMPORARY NOTES, SERIES 2006-A OF THE CITY OF TOPEKA, KANSAS, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$11,470,000 FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF RENEWING A PORTION OF THE PRINCIPAL AMOUNT OF THE SERIES 2005-A TEMPORARY NOTES OF SAID CITY, DATED NOVEMBER 29, 2005, AND FOR THE PURPOSE OF PROVIDING FUNDS TO PAY A PORTION OF THE COST OF CERTAIN IMPROVEMENTS IN SAID CITY.

WHEREAS, pursuant to K.S.A. 12-6a01 *et seq.*, K.S.A. 12-685 *et seq.*, all 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) Bridge Project No. 12060 (Phase 1);
- (b) Sanitary Sewer Project No. 40025 (Phase 6);
- (c) Sanitary Sewer Project No. 40858 (Phase 3);
- (d) Sanitary Sewer Project No. 40915 (Phase 2);
- (e) Sanitary Sewer Project No. 40917 (Phase 2);
- (f) Sanitary Sewer Project No. 40932;
- (g) Sanitary Sewer Project No. 40933 (Phase 1);
- (h) Sanitary Sewer Project No. 40945;
- (i) Street Improvement Project No. 60525 (Phase 1);
- (j) Street Improvement Project No. 60598 (Phase 2);
- (k) Street Improvement Project No. 60599 (Phase 2);
- (l) Street Improvement Project No. 60604 (Phase 1);

- 34 (m) Street Improvement Project No. 60605;
- 35 (n) Street Improvement Project No. 60610 (Phase 2);
- 36 (o) Street Improvement Project No. 60611 (Phase 2);
- 37 (p) Street Improvement Project No. 60611 (Phase 3);
- 38 (q) Street Improvement Project No. 60614 (Phase 1);
- 39 (r) Street Improvement Project No. 60623 (Phase H);
- 40 (s) Street Improvement Project No. 60624 (Phase 1);
- 41 (t) Street Improvement Project No. 60625;
- 42 (u) Street Improvement Project No. 60626;
- 43 (v) Street Improvement Project No. 60627;
- 44 (w) Trafficway Improvement Project No. 70183;
- 45 (x) Trafficway Improvement Project No. 70190 (Phase 1);
- 46 (y) Trafficway Improvement Project No. 70196 (Phase 2); and
- 47 (z) Trafficway Improvement Project No. 70197 (Phase 1).

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

50 **WHEREAS**, pursuant to Resolution No. 7701 of the City adopted October 25, 2005, the
51 City has issued its Temporary Notes, Series 2005-A dated November 29, 2005, aggregating the
52 principal amount of \$22,425,000 and maturing on November 29, 2006, (the “Series 2005-A
53 Notes”) to provide funds to finance certain improvements in the City including Projects Nos.
54 40025 (Phase 6), 40858 (Phase 3), 40915 (Phase 2), 40917 (Phase 2), 40932, 40933 (Phase 1),
55 60525 (Phase 1), 60598 (Phase 2), 60599 (Phase 2), 60604 (Phase 1), 60605, 60611 (Phase 2),
56 60614 (Phase 1), 70183, 70190 (Phase 1) and 70197 (Phase 1); as hereinbefore described (the
57 “Projects”), and all aspects of said Projects will not be fully completed at the maturity of the
58 Series 2005-A Notes; and

59 **WHEREAS**, it is necessary for the City to provide cash funds to renew a portion of the
60 Series 2005-A Temporary Notes issued to provide financing for the Projects and to meet the

61 City's obligations incurred in connection with the Improvements prior to the completion of said
62 work and the issuance of the City's general obligation bonds, and it is desirable and in the
63 interest of the City that such funds be raised by the issuance of temporary notes of the City, said
64 notes to be issued by the City pursuant to the provisions of K.S.A. 10-123, as amended.

65 **NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF**
66 **TOPEKA, KANSAS, AS FOLLOWS:**

67 **Section 1.(a)** For the purpose of providing funds to renew a portion of the Series 2005-A
68 Notes issued in connection with the Projects as hereinbefore described and to pay obligations
69 incurred by the City in acquiring and constructing the Improvements, there shall be issued and
70 are hereby authorized to be issued Temporary Notes, Series 2006-A, of the City, in the principal
71 amount not to exceed \$11,470,000 (the "Notes"). The Notes will consist of fully registered notes
72 in the denomination of \$5,000 or any integral multiple thereof. The Notes shall initially be
73 registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York,
74 New York, (along with its successors and assigns, the "Securities Depository") to which
75 payments of principal on the Notes will be made by the Treasurer of the State of Kansas (the
76 "Note Registrar" and "Paying Agent") in lawful money of the United States of America upon
77 presentation of the Notes for payment and cancellation. Individual purchases of Notes will be
78 made in book-entry form only. Purchasers will not receive certificates representing their interest
79 in Notes purchased. It is anticipated that during the term of the Notes, the Securities Depository
80 will make book-entry transfers among those financial institutions (the "Participants") for whom it
81 effects book entry transfers and pledges of securities deposited with it from time to time and
82 receive and transmit payment of principal of and interest on the Notes to the Participants until
83 and unless the Note Registrar (hereinafter designated) authenticates and delivers Replacement
84 Notes to the beneficial owners as described in subsection (b). The Notes shall be dated
85 November 28, 2006, shall become due on December 1, 2007, and shall bear interest from said
86 date at the rate of four and three hundred seventy-five thousandths percent (4.375%) per annum.
87 Interest on the Notes shall be payable at the maturity of the Notes on December 1, 2007, (the

88 “Interest Payment Date”) to the Registered Owner thereof appearing on the books of the Note
89 Registrar as of the 15th day of the month next preceding the applicable interest payment date
90 (the “Record Date”).

91 (b) (1) If the City determines (A) that the Securities Depository is unable to properly
92 discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as
93 a securities depository and registered clearing agency under the Securities and Exchange Act of
94 1934, as amended, or (C) that the continuation of a book-entry system to the exclusion of any
95 Notes being issued to any registered owner of any of the Notes ("Registered Owner") other than
96 Cede & Co. is no longer in the best interests of the beneficial owners of the Notes, or (2) if the
97 Note Registrar receives written notice from Participants having interests in not less than 50% of
98 the Notes which are outstanding and unpaid, as shown on the records of the Securities
99 Depository (and certified to such effect by the Securities Depository), that the continuation of a
100 book-entry system to the exclusion of any Notes being issued to any Registered Owner other
101 than Cede & Co. is no longer in the best interests of the beneficial owners of the Notes, then the
102 Note Registrar shall notify the Registered Owners of such determination or such notice and of
103 the availability of certificates to beneficial owners requesting the same, and the Note Registrar
104 shall register in the name of and authenticate and deliver replacement Notes to the beneficial
105 owners or their nominees in principal amounts representing the interest of each, making such
106 adjustment as it may find necessary or appropriate as to accrued interest; provided, that in the
107 case of a determination under (1)(A) or (1)(B) of this subsection (b), the City may, after
108 consultation with the Note Registrar, select a successor securities depository in accordance with
109 subsection (c) hereof to effect book-entry transfers. In such event, all references to the Securities
110 Depository herein shall relate to the period of time when the Securities Depository has
111 possession of at least one Note. Upon the issuance of any replacement Notes ("Replacement
112 Notes"), all references herein to obligations imposed upon or to be performed by the Securities
113 Depository shall be deemed to be imposed upon and performed by the Note Registrar, to the
114 extent applicable with respect to such Replacement Notes. If the Securities Depository resigns

115 and the City is unable to locate a qualified successor of the Securities Depository in accordance
116 with subsection (c) hereof, then the Note Registrar shall authenticate and cause delivery of
117 Replacement Notes to the beneficial owners thereof, as provided herein. The Note Registrar may
118 rely on information from the Securities Depository and its Participants as to the names of the
119 beneficial owners of the Notes. The cost of printing, registration, authentication and delivery of
120 Replacement Notes shall be paid for by the City.

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

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

140 **Section 2.** The Notes shall contain recitals and be in the form as prescribed by law. The
141 Notes, shall in addition to all other requirements, shall be subject to the terms and conditions of

142 the agreement entitled “Agreement Between Issuer and Agent” by and between the City and the
143 Treasurer of the State of Kansas, as Note Registrar.

144 **Section 3.** The Notes shall be executed by the facsimile or manual signature of the
145 Mayor or Deputy Mayor and City Clerk or Deputy City Clerk and the seal of the City shall be
146 printed or affixed thereon. After such execution and the registration of the Notes by the City
147 Clerk and the Kansas State Treasurer, Topeka, Kansas, hereby designated as both the City’s Note
148 Registrar and Paying Agent in connection with the Notes, the Notes shall be countersigned by
149 the City Clerk or Deputy City Clerk and delivered to the Original Purchaser thereof upon receipt
150 of the purchase price thereof, said purchase price to be not less than the principal amount thereof
151 plus accrued interest thereon to the date of delivery. The proceeds of the Notes shall be placed in
152 the City Treasury and applied solely to pay the costs of renewing the Series 2005-A Notes
153 previously issued to finance the Projects as hereinbefore described, the costs of the
154 Improvements and the costs of issuing the Notes.

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

156
157 UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE
158 OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO
159 ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR
160 PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE
161 & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED
162 REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO
163 SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE
164 OF DTC), **ANY TRANSFER, PLEDGE, OR OTHER USE THEREOF FOR VALUE OR
165 OTHERWISE BY OR TO ANY PERSON IS WRONGFUL IN AS MUCH AS THE
166 REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.**
167

168	Temporary Note No. R-1	
169	UNITED STATES OF AMERICA	
170	STATE OF KANSAS	
171	COUNTY OF SHAWNEE	
172	CITY OF TOPEKA	
173	SERIES 2006-A	
174		
175		

169 **\$11,470,000** **\$11,470,000**

176 Rate of Maturity Dated CUSIP NO. _____
177 Interest: 4.375% Date: December 1, 2007 Date: November 28, 2006
178 Registered Owner: Cede & Co.
179 Principal Amount: Eleven Million Four Hundred Seventy Thousand Dollars
180

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

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

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

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

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

206 **IN WITNESS WHEREOF**, the said City of Topeka, in the State of Kansas, by its
207 Governing Body, has caused this Temporary Note to be signed by its Mayor or Deputy Mayor
208 and attested by its City Clerk, and has caused its corporate seal to be affixed hereto, all as of the
209 28th day of November, 2006.

210
211 ATTEST:

212 _____
213 _____
214 City Clerk

Mayor, City of Topeka, Shawnee County,
Kansas

215
216 (SEAL)

217
218 This Note shall not be negotiable unless and until countersigned below following
219 registration by the Treasurer of the State of Kansas.

220
221 (SEAL)

City Clerk

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Note is one of the City of Topeka, Kansas, Temporary Notes, Series 2006-A, 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 28th day of November, 2006.

(SEAL)

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

STATE TREASURER'S CERTIFICATE

STATE OF KANSAS, COUNTY OF SHAWNEE, SS:

I, **LYNN JENKINS**, 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 November, 2006.

WITNESS My Hand and Official Seal.

LYNN JENKINS
Treasurer of the State of Kansas

BY: _____

(SEAL)

State Treasurer

NOTE ASSIGNMENT

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

270 _____
271 (Note Assignment)
272 _____

273 _____
274 _____
275 (Social Security or Taxpayer Identifying No.)
276 _____

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

282 Dated _____

283 _____
284 Name

285 _____
286 Social Security or Taxpayer Identifying No.

287 _____
288 Signature (Sign Here Exactly as
289 Name(s) Appear on Face of Certificate)

290 _____
291 Face of Certificate Signature Guaranteed By:

292 _____
293 (Name of Eligible Guarantor Institution as
294 defined by SEC Rule 17Ad-15 (17CFR
295 240.17 Ad-15)

296 _____
297 By: _____
298 _____

299 *****

300 **FURTHER TERMS AND CONDITIONS**

301
302 This Note is one of a duly authorized series of Temporary Notes aggregating the principal
303 amount of \$11,470,000 (the "Notes") issued by the City to finance, on an interim basis, the
304 construction of certain improvements, heretofore duly authorized by the City, which are to be
305 paid for either in whole or in part by the issuance of bonds of the City. This Note and the series
306 of which it is a part are issued by the City to pay the cost of such improvements until money for
307 such purpose and for the payment of this Note with accrued interest, if any, thereon can be raised
308 by the City by the sale and issuance of its general obligation bonds. This Note and the series of
309 which it is a part are issued by the authority of and in full compliance with the provisions,
310 restrictions and limitations of Resolution No. 7883 of the City (the "Resolution"), the
311 Constitution and Laws of the State of Kansas, including Article 12, Section 5 of the Constitution
312 to the State of Kansas, K.S.A. 10-101 to 125, inclusive, K.S.A. 12-6a01 *et seq.*, K.S.A. 12-685 *et*

313 *seq.*, all as amended, and Charter Ordinance No. 89 of the City (Section A12-1 of the Code of the
314 City) and all acts amendatory thereof and supplemental thereto.

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

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

354 **Section 5.** That the Notes shall be issued and sold to First Albany Capital, New York,
355 New York, in accordance with both the Note Bid Form (the "Note Bid Form") between such

356 Original Purchaser and the City, the execution of which Note Bid Form is authorized hereby and
357 by the other terms and conditions of this Resolution.

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

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

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

375 **Section 9.** That the City hereby covenants and agrees that it will comply with and carry
376 out all of the provisions of the Continuing Disclosure Certificate attached to the Final Certificate
377 of the City included in the transcript of proceedings regarding the Notes. Notwithstanding any
378 other provision of this Resolution, failure of the City to comply with the Continuing Disclosure
379 Certificate shall not be considered an event of default of the City's obligations either under this
380 Resolution or in connection with the Notes; provided, however, any owner of the Notes may take
381 such actions as may be necessary and appropriate, including seeking mandate or specific perfor-
382 mance by court order, to cause the City to comply with its obligations under this Section.

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EXHIBIT A

LETTER OF REPRESENTATIONS

(ATTACHED)