

**RESOLUTION NO. 8366**

**A RESOLUTION INTRODUCED BY ACTING CITY MANAGER DANIEL R. STANLEY AUTHORIZING AND DIRECTING THE ISSUANCE OF TEMPORARY NOTES, SERIES 2011-A OF THE CITY OF TOPEKA, KANSAS, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$15,230,000 FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE COST OF (i) RENEWING A PORTION OF THE PRINCIPAL AMOUNT OF THE SERIES 2010-A AND SERIES 2010-B TEMPORARY NOTES OF SAID CITY, DATED SEPTEMBER 29, 2010, 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. T-151001.00;
- (b) Drainage Improvement Project No. T-151011.00;
- (c) Water Line Improvement Project No. T-281004.00;
- (d) Sanitary Sewer Improvement Project No. 40944-01;
- (e) Sanitary Sewer Improvement Project No. T-401011.00;
- (f) Sanitary Sewer Improvement Project No. T-401017.00;
- (g) Sanitary Sewer Improvement Project No. T-401025.00;
- (h) Sanitary Sewer Improvement Project No. T-401027.00;
- (i) Street Improvement Project No. 60624-01;
- (j) Street Improvement Project No. 60624-02;
- (k) Street Improvement Project No. 60632-01;
- (l) Street Improvement Project No. T-601001.00;

- 34 (m) Street Improvement Project No. T-601008.00;
- 35 (n) Street Improvement Project No. 70123-01;
- 36 (o) Street Improvement Project No. T-601018.00;
- 37 (p) Bridge Improvement Project No. 12045-00;
- 38 (q) Bridge Improvement Project No. T-121000.00;
- 39 (r) Trafficway Improvement Project No. T-141009.00;
- 40 (s) Park Improvement Project No. T-301026.00;
- 41 (t) Park Improvement Project No. T-301029.00;
- 42 (u) Park Improvement Project No. T-301030.00;
- 43 (v) Park Improvement Project No. T-601014.00;
- 44 (w) Park Improvement Project No. T-301034.00;
- 45 (x) Utility System Improvement Project No. T-281000.03; and
- 46 (y) Utility System Improvement Project No. T-291015.00.

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

49 **WHEREAS**, pursuant to Resolution No. 8281 of the City adopted August 31, 2010, the  
50 City has issued its Temporary Notes, Series 2010-A, dated September 29, 2010, aggregating the  
51 principal amount of \$2,950,000 and maturing on October 1, 2011, (the “Series 2010-A Notes”)  
52 to provide funds to finance certain utility system improvements in the City including Project No.  
53 T-281000.03; as hereinbefore described (the “2010-A Project”) and all aspects of said project  
54 will not be fully completed at the maturity of the Series 2010-A Notes; and

55 **WHEREAS**, pursuant to Resolution No. 8282 of the City adopted August 31, 2010, the  
56 City has issued its Temporary Notes, Series 2010-B, dated September 29, 2010, aggregating the  
57 principal amount of \$24,615,000 and maturing on October 1, 2011, (the “Series 2010-B Notes”)  
58 to provide funds to finance certain improvements in the City including Projects Nos. T-  
59 151001.00, T-281004.00, T-401011.00, T-401017.00, 60632-01, T-601001.00, T-601008.00,  
60 70123-01, 12045-00 and T-121000.00; as hereinbefore described (the “2010-B Projects”), and all

61 aspects of said Projects will not be fully completed at the maturity of the Series 2010-B Notes;  
62 and

63 **WHEREAS**, it is necessary for the City to provide cash funds to (i) renew a portion of  
64 the Series 2010-A Notes issued to provide financing for the 2010-A Project, (ii) renew a portion  
65 of the Series 2010-B Notes issued to provide financing for the 2010-B Projects and (iii) to meet  
66 the City's obligations incurred in connection with the Improvements prior to the completion of  
67 said work and the issuance of the City's general obligation bonds, and it is desirable and in the  
68 interest of the City that such funds be raised by the issuance of temporary notes of the City, said  
69 notes to be issued by the City pursuant to the provisions of K.S.A. 10-123, as amended.

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

72 **Section 1.(a)** For the purpose of providing funds to (i) renew a portion of the Series  
73 2010-A Notes issued in connection with the 2010-A Project as hereinbefore described, (ii) renew  
74 a portion of the Series 2010-B Notes issued in connection with the 2010-B Projects as  
75 hereinbefore described, and (iii) to pay obligations incurred by the City in acquiring and  
76 constructing the Improvements, there shall be issued and are hereby authorized to be issued  
77 Temporary Notes, Series 2011-A, of the City, in the principal amount not to exceed \$15,230,000  
78 (the "Notes"). The Notes will consist of fully registered notes in the denomination of \$5,000 or  
79 any integral multiple thereof. The Notes shall initially be registered in the name of Cede & Co.,  
80 as nominee of The Depository Trust Company, New York, New York, (along with its successors  
81 and assigns, the "Securities Depository") to which payments of principal on the Notes will be  
82 made by the Treasurer of the State of Kansas (the "Note Registrar" and "Paying Agent") in  
83 lawful money of the United States of America upon presentation of the Notes for payment and  
84 cancellation. Individual purchases of Notes will be made in book-entry form only. Purchasers  
85 will not receive certificates representing their interest in Notes purchased. It is anticipated that  
86 during the term of the Notes, the Securities Depository will make book-entry transfers among  
87 those financial institutions (the "Participants") for whom it effects book entry transfers and

88 pledges of securities deposited with it from time to time and receive and transmit payment of  
89 principal of and interest on the Notes to the Participants until and unless the Note Registrar  
90 (hereinafter designated) authenticates and delivers Replacement Notes to the beneficial owners  
91 as described in subsection (b). The Notes shall be dated September 20, 2011, shall become due  
92 on October 1, 2012, and shall bear interest from said date at the rate of one and one-quarter  
93 percent (1.25%) per annum. Interest on the Notes shall be payable at the maturity of the Notes  
94 on October 1, 2012, (the "Interest Payment Date") to the Registered Owner thereof appearing on  
95 the books of the Note Registrar as of the 15th day of the month next preceding the applicable  
96 interest payment date (the "Record Date").

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

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

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

138 (d) The execution and delivery of the Representation Letter to The Depository Trust  
139 Company, New York, New York, by the Mayor or Deputy Mayor in the form attached hereto as  
140 Exhibit A with such changes, omissions, insertions and revisions as the Mayor or Deputy Mayor  
141 shall deem advisable, is hereby authorized, and execution of the Representation Letter by the

142 Mayor or Deputy Mayor shall be conclusive evidence of such approval. The Representation  
143 Letter shall set forth certain matters with respect to, among other things, notices, consents and  
144 approvals by the owners (both the Registered Owner and beneficial owners) of the Notes and  
145 payments of the principal of and interest on the Notes.

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

150 **Section 3.** The Notes shall be executed by the facsimile or manual signature of the  
151 Mayor or Deputy Mayor and City Clerk or Deputy City Clerk and the seal of the City shall be  
152 printed or affixed thereon. After such execution and the registration of the Notes by the City  
153 Clerk and the Kansas State Treasurer, Topeka, Kansas, hereby designated as both the City’s Note  
154 Registrar and Paying Agent in connection with the Notes, the Notes shall be countersigned by  
155 the City Clerk or Deputy City Clerk and delivered to the Original Purchaser thereof upon receipt  
156 of the purchase price thereof, said purchase price to be not less than the principal amount thereof  
157 plus accrued interest thereon to the date of delivery. The proceeds of the Notes shall be placed in  
158 the City Treasury and applied solely to pay the costs of (i) renewing a portion of the Series 2010-  
159 A Notes previously issued to finance the 2010-A Project as hereinbefore described, (ii) renewing  
160 a portion of the Series 2010-B Notes previously issued to finance the 2010-B Projects as  
161 hereinbefore described, (iii) the costs of the Improvements and (iv) the costs of issuing the  
162 Notes.

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

164  
165 UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF  
166 THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), TO ISSUER OR  
167 ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY  
168 CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER  
169 NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY  
170 PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN  
171 AUTHORIZED REPRESENTATIVE OF DTC), **ANY TRANSFER, PLEDGE, OR OTHER USE**

172 **THEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL IN AS**  
173 **MUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.**

174  
175 **Temporary Note No. R-1**

176 **\$15,230,000**

**\$15,230,000**

177 **UNITED STATES OF AMERICA**  
178 **STATE OF KANSAS**  
179 **COUNTY OF SHAWNEE**  
180 **CITY OF TOPEKA**  
181 **SERIES 2011-A**

182  
183 Rate of                      Maturity                      Dated                      CUSIP NO. \_\_\_\_\_  
184 Interest: 1.25%              Date: October 1, 2012              Date: September 20, 2011  
185 Registered Owner: Cede & Co.  
186 Principal Amount: Fifteen Million Two Hundred Thirty Thousand Dollars  
187

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

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

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

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

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

213 **IN WITNESS WHEREOF**, the said City of Topeka, in the State of Kansas, by its  
214 Governing Body, has caused this Temporary Note to be signed by its Mayor or Deputy Mayor  
215 and attested by its City Clerk, and has caused its corporate seal to be affixed hereto, all as of the  
216 20th day of September, 2011.

217  
218 **ATTEST:**

\_\_\_\_\_

219 \_\_\_\_\_ Mayor, City of Topeka, Shawnee County,  
220 \_\_\_\_\_ Kansas  
221 City Clerk

222  
223 (SEAL)

224  
225 This Note shall not be negotiable unless and until countersigned below following  
226 registration by the Treasurer of the State of Kansas.

227  
228 (SEAL) \_\_\_\_\_ City Clerk

229 \*\*\*\*\*

230 **CERTIFICATE OF AUTHENTICATION AND REGISTRATION**

231  
232 This Note is one of the City of Topeka, Kansas, Temporary Notes, Series 2011-A,  
233 described in the within mentioned Resolution.

234  
235 Registration Date: \_\_\_\_\_.

236 **OFFICE OF THE STATE TREASURER**  
237 Topeka, Kansas,  
238 As Note Registrar and Paying Agent

239  
240 I.D. No. \_\_\_\_\_ By \_\_\_\_\_

241  
242 \*\*\*\*\*

243 **CITY CLERK'S CERTIFICATE**

244  
245 **STATE OF KANSAS, COUNTY OF SHAWNEE, SS:**

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

249  
250 WITNESS My Hand and Official Seal as of this 20th day of September, 2011.

251  
252  
253 (SEAL) \_\_\_\_\_ City Clerk of the City of Topeka,  
254 Shawnee County, Kansas

255 \*\*\*\*\*

256 **STATE TREASURER'S CERTIFICATE**

257  
258 **STATE OF KANSAS, COUNTY OF SHAWNEE, SS:**

259  
260 I, **RON ESTES**, Treasurer of the State of Kansas, do hereby certify that a full and  
261 complete transcript of the proceedings leading up to the issuance of this Temporary Note has  
262 been filed in my office and that this Note has been registered in my office according to law this  
263 \_\_\_\_\_ day of September, 2011.

265 WITNESS My Hand and Official Seal.

266  
267  
268  
269

**RON ESTES**  
Treasurer of the State of Kansas

BY: \_\_\_\_\_

270 (SEAL)

State Treasurer

271 \*\*\*\*\*

272 **NOTE ASSIGNMENT**

273  
274  
275  
276  
277  
278  
279

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

\_\_\_\_\_  
(Note Assignment)

\_\_\_\_\_  
(Social Security or Taxpayer Identifying No.)

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

287 Dated \_\_\_\_\_

\_\_\_\_\_  
Name

288  
289  
290

\_\_\_\_\_  
Social Security or Taxpayer Identifying No.

291  
292  
293

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

294  
295  
296  
297

Face of Certificate Signature Guaranteed By:

298  
299  
300

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

301  
302

By: \_\_\_\_\_

303  
304

\*\*\*\*\*

305 **FURTHER TERMS AND CONDITIONS**

306  
307  
308  
309  
310

This Note is one of a duly authorized series of Temporary Notes aggregating the principal amount of \$15,230,000 (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

311 of which it is a part are issued by the City to pay the cost of such improvements until money for  
312 such purpose and for the payment of this Note with accrued interest, if any, thereon can be raised  
313 by the City by the sale and issuance of its general obligation bonds. This Note and the series of  
314 which it is a part are issued by the authority of and in full compliance with the provisions,  
315 restrictions and limitations of Resolution No. 8366 of the City (the "Resolution"), the  
316 Constitution and Laws of the State of Kansas, including Article 12, Section 5 of the Constitution  
317 to the State of Kansas, K.S.A. 10-101 to 125, inclusive, K.S.A. 12-6a01 *et seq.*, as amended, and  
318 Charter Ordinance No. 89 of the City (Section A12-1 of the Code of the City) and all acts  
319 amendatory thereof and supplemental thereto.

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

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

356 the replacement of any of the Notes mutilated, stolen, lost or destroyed or (b) any tax or other  
357 governmental charge imposed in relation to the transfer, exchange or payment of the Notes.  
358 \*\*\*\*\*

359 **Section 5.** That the Notes shall be issued and sold to Oppenheimer & Co. Inc.,  
360 Philadelphia, Pennsylvania, in accordance with both the Note Bid Form (the “Note Bid Form”)  
361 between such Original Purchaser and the City, the execution of which Note Bid Form is  
362 authorized hereby and by the other terms and conditions of this Resolution.

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

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

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

380 **Section 9.** That the City hereby covenants and agrees that it will comply with and carry  
381 out all of the provisions of the Continuing Disclosure Certificate attached to the Final Certificate  
382 of the City included in the transcript of proceedings regarding the Notes. Notwithstanding any  
383 other provision of this Resolution, failure of the City to comply with the Continuing Disclosure

384 Certificate shall not be considered an event of default of the City's obligations either under this  
385 Resolution or in connection with the Notes; provided, however, any owner of the Notes may take  
386 such actions as may be necessary and appropriate, including seeking mandate or specific perfor-  
387 mance by court order, to cause the City to comply with its obligations under this Section.

388  
389 **ADOPTED** by the Governing Body of the City of Topeka, Kansas, this 23rd day of  
390 August, 2011.

391  
392 (SEAL)

**CITY OF TOPEKA, KANSAS**

393  
394

\_\_\_\_\_  
William W. Bunten, Mayor

395 ATTEST:

396  
397

\_\_\_\_\_  
Brenda Younger, City Clerk

399  
400

**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. 8366  
adopted and approved by the governing body of the City on August 23, 2011.

403  
404 (SEAL)

\_\_\_\_\_  
Brenda Younger, City Clerk

405  
406

407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420

EXHIBIT A

**LETTER OF REPRESENTATIONS**

(ATTACHED)