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A RESOLUTION introduced by Mayor Joan Wagon creating the Topeka Housing Authority, a municipal housing authority pursuant to the Kansas municipal housing act, K.S.A. 17-2337 *et seq.* and rescinding Resolutions 2431, 2564, 4696 5598 and any other resolutions in conflict with this.

1. FINDINGS AND DECLARATION OF NECESSITY

The following is hereby declared.

1.1 There exists in the City of Topeka unsanitary, unsafe, and overcrowded dwelling accommodations;

1.2 There is in the City of Topeka a shortage of safe or sanitary dwelling accommodations available at rents or prices which persons of low income can afford and that such shortage forces such persons to occupy unsanitary, unsafe and overcrowded dwelling accommodations;

1.3 The aforesaid conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety and welfare of the residents of the City of Topeka;

1.4 These conditions prompt expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities;

1.5 These blighted areas cannot be cleared, and the shortage of safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprise alone, and the construction of housing complexes for persons of low income (as herein defined) would therefore not be competitive with private enterprise;

29 1.6 The construction of such complexes would make housing available for
30 persons of low income;

31 1.7 The clearance, re-planning, and preparation for rebuilding of these blighted
32 areas and the providing of safe and sanitary dwelling accommodations for persons of low
33 income are public uses and purposes for which public money may be spent and private
34 property acquired and are governmental functions of city-wide concern;

35 1.8 Residential construction activity is closely correlated with general economic
36 activity and the undertakings authorized by this Resolution to aid the production of better
37 housing and more desirable neighborhood and community development at lower costs
38 will make possible a more stable and larger volume of residential construction which will
39 assist materially in maintaining full employment and the necessity in the public interest for
40 the provisions hereinafter enacted is hereby declared as a matter of City Council
41 determination.

42 2. **DEFINITIONS**
43

44 The following terms, wherever used or referred to in this Resolution, shall have the
45 following respective meanings, unless a different meaning clearly appears from the
46 context.

47 2.1 "Housing Authority" or "Authority" shall mean the Topeka Housing Authority
48 created pursuant to this Resolution.

49 2.2 "Governing Body" shall mean the Topeka City Council.

50 2.3 "Mayor" shall mean the mayor of the City of Topeka.

51 2.4 "Clerk" shall mean the clerk of the City of Topeka.

52 2.5 “Federal government” shall include the United States of America, the public
53 housing administration, or any other agency or instrumentality, corporate or otherwise of
54 the United States of America.

55 2.6 “Blighted area” means any area where dwellings predominate which by
56 reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light
57 or sanitary facilities, or any combination of these factors are detrimental to safety, health
58 and morals.

59 2.7 “Housing complex” or “complex” shall mean any work or undertaking to
60 provide decent, safe and sanitary dwellings, apartments, or other living accommodations
61 for persons of low income. Such work or undertaking may include buildings, land,
62 equipment, facilities, and other real or personal property for necessary, convenient or
63 desirable appurtenances, streets, sewers, water service, utilities, parks, site preparation,
64 landscaping, administrative, community, health, recreational, welfare, or other purposes.
65 The term “housing complex” or “complex” also may be applied to the planning of the
66 buildings and improvements, the acquisition of property, the demolition of existing
67 structures, the construction, reconstruction, alteration or repair of the improvements and
68 all other work in connection therewith, and the term shall include all other real and
69 personal property and all tangible or intangible assets held or used in connection with the
70 housing complex.

71 2.8 “Persons of low income” shall mean persons or families who lack the
72 amount of income necessary (as determined by the City) to enable them without financial
73 assistance, to live in decent, safe, and sanitary dwellings, without overcrowding.

74 2.9 "Elderly person" shall mean a single person or a family, the head of which
75 (or his spouse) has attained retirement age as defined in section 216 (a) of the federal
76 Social Security Act or who is under a disability as defined in section 223 of said Act.

77 2.10 "Real property" shall include all lands, including improvements and fixtures
78 thereon, and property of any nature appurtenant thereto, or used in connection therewith,
79 and every estate, interest and right, legal or equitable, therein, including terms for years.

80 2.11 "Municipality" shall mean any city.

81 3. **POWERS**

82 3.1 The City of Topeka hereby creates by this Resolution an Authority to be
83 known as the "Topeka Housing Authority" and delegates to this Authority only those
84 powers conferred on the City of Topeka by the Kansas municipal housing law, K.S.A. 17-
85 2337, *et seq.*, that are set out and enumerated below. Further, the City of Topeka hereby
86 authorizes the Topeka Housing Authority to employ an executive director, technical
87 experts and such other officers, agents and employees, permanent and temporary, as it
88 may require, and to delegate to one or more of its agents or employees such powers or
89 duties as the Topeka Housing Authority may deem proper. Such Housing Authority shall
90 have the power to sue and be sued.

91 3.2 In any suit, action or proceeding involving the validity or enforcement of or
92 relating to any contract of the Topeka Housing Authority, the Authority shall be
93 conclusively deemed to have become established and authorized to transact business
94 and exercise its powers hereunder upon proof of the adoption of this Resolution. A copy
95 of such resolution duly certified by the clerk shall be admissible in evidence in any suit,
96 action or proceeding.

97 3.3 The Topeka Housing Authority also shall have the following powers:

98 To prepare, carry out, and manage housing complexes and to provide for the
99 construction, reconstruction, improvement, extension, alteration or repair of any housing
100 complex or any part thereof but in the carrying out activities under the terms of the Kansas
101 municipal housing law, public utilities, either publicly or privately owned, shall not be
102 required to locate, relocate, remove or readjust utility facilities and services without fair
103 and reasonable compensation;

104 To undertake and carry out studies and analyses of the housing needs and of the
105 meeting of such needs (including data with respect to population and family groups and
106 the distribution thereof according to income groups, the amount and quality of available
107 housing and its distribution according to rentals and sales prices, employment, wages and
108 other factors affecting the local housing needs and the meeting thereof) and to make the
109 results of such studies and analyses available to the public and the building, housing and
110 supply industries; and to engage in research and disseminate information on housing and
111 blight clearance;

112 To arrange or contract for the furnishing by any person or agency, public or private,
113 of services, privileges, works, or facilities for, or in connection with, a housing complex or
114 the occupants thereof, and (notwithstanding anything to the contrary contained in the
115 Kansas municipal housing law or in any other provision of law) to agree to any conditions
116 attached to federal financial assistance, and to comply with any conditions which the
117 federal government may have attached to its financial aid of the complex;

118 To lease or rent any dwellings, accommodations, lands, buildings, structures or
119 facilities embraced in any complex and (subject to the limitations contained in the Kansas
120 municipal housing law with respect to the rental of dwellings in housing complexes) to

121 establish and revise the rents or charges therefore; to own, hold, and improve real or
122 personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest,
123 devise, or otherwise any real or personal property or any interest therein; to sell, lease,
124 exchange, transfer, assign, pledge or dispose of any real or personal property or any
125 interest therein as any part of the property of the Housing Authority established under this
126 Resolution; to insure or provide for the insurance, in any stock or mutual company, of any
127 real or personal property or operations of the Authority against any risks or hazards;

128 To invest any reserve or sinking funds held in connection with a housing complex
129 which are not required for immediate disbursements, in investments authorized by K.S.A.
130 12-1675, and amendments thereto, in the manner prescribed therein or in direct
131 obligations of the United States government or any agency thereof; to redeem its bonds
132 at the redemption price established therein or to purchase its bonds at less than such
133 redemption price, all bonds so redeemed or purchased to be canceled.

134 To determine where blighted areas exist or where there is unsafe, unsanitary or
135 overcrowded housing; to make studies and recommendations relating to the problem of
136 clearing, re-planning and reconstructing of blighted areas and the problem of eliminating
137 unsafe, unsanitary or overcrowded housing and providing dwelling accommodations for
138 persons of low income; and to cooperate with any state public body in action taken in
139 connection with these problems;

140 To insure or provide for the insurance of any housing complex of the Authority
141 against such risks as the Authority may deem advisable;

142 To prepare plans and provide assistance of all kinds for the relocation of families
143 displaced from a blighted area by the Kansas municipal housing law, and to provide

144 adequate recreational facilities, in the over-all plan of the municipal housing area;

145 To exercise all or any part or combination of powers herein granted.

146 4. **BOARD OF COMMISSIONERS**

147 4.1 In accordance with the provisions of the Kansas municipal housing law the
148 mayor of the City of Topeka hereby assumes responsibility for appointing, with the
149 consent of the city council, five (5) persons as commissioners of the Topeka Housing
150 Authority created by this Resolution.

151 4.2 The commissioners first appointed pursuant to this resolution shall be
152 designated to serve terms as follows; one (1) for one (1) year, one (1) for two (2) years,
153 one (1) for three (3) years and two (2) for four (4) years each, from the date of their
154 appointment, but thereafter commissioners shall be appointed as aforesaid for a term of
155 office of four (4) years except that all vacancies shall be filled for the unexpired term, all
156 such appointments to be made by the mayor.

157 4.3 A commissioner shall receive no compensation for his or her services, but
158 shall be entitled to the necessary expenses, including traveling expenses, incurred in the
159 discharge of his or her duties. Each commissioner shall hold office until his or her
160 successor has been appointed and has qualified. A certificate of the appointment or
161 reappointment of any commissioner shall be filed with the Authority and this certificate
162 shall be conclusive evidence of the due and proper appointment of the commissioner.

163 4.4 The powers delegated to the Topeka Housing Authority shall be vested in
164 the commissioners thereof in office from time to time. Three (3) commissioners shall
165 constitute a quorum of such Authority for the purpose of conducting its business and
166 exercising its powers and for all other purposes, notwithstanding the existence of any

167 vacancies. Action may be taken by the Authority upon a vote of a majority of the
168 commissioners present, unless in any case the bylaws of the Authority shall require a
169 larger number. Meetings of the commissioners may be held anywhere within the
170 perimeter boundaries of the area of operation of the Authority or within any additional area
171 where the Authority is authorized to undertake a project or complex. Appointments may
172 be made of any persons as commissioners of the Authority who reside within its
173 boundaries or area, and who are otherwise eligible for such appointments under this
174 Resolution; provided however that no less than one commissioner is directly assisted by
175 the Topeka Housing Agency. The commissioners of the Authority shall elect a chair and
176 vice-chair from among the commissioners.

177 4.5 A commissioner may be removed by the mayor for inefficiency or neglect
178 of duty or misconduct in office, but a commissioner shall be removed only after a hearing
179 and after he or she shall have been given a copy of the charges at least ten (10) days
180 prior to the hearing and had an opportunity to be heard in person or by counsel. In the
181 event of the removal of any commissioner, a record of the proceedings, together with the
182 charges and findings thereon, shall be filed in the office of the clerk.

183 5. **PAYMENT FOR DWELLING ACCOMMODATIONS**

184 5.1 It is hereby declared to be the policy of the City that the Topeka Housing
185 Authority shall manage and operate its housing complexes in an efficient manner so as
186 to enable it to fix the rentals or payments for dwelling accommodations at low rates
187 consistent with its providing decent, safe and sanitary dwelling accommodations for
188 persons of low income.

189 5.2 The Authority shall not construct or operate any housing complex for profit,

190 or as a source of revenue to the Authority. To this end the Topeka Housing Authority shall
191 fix the rentals or payments for dwellings in its complexes at no higher rates than it shall
192 find to be necessary in order to produce revenues which (together with all other available
193 moneys, revenues, income and receipts in connection with or for such complexes from
194 whatever sources derived, including federal financial assistance) will be sufficient:

195 (a) To pay, as the same become due, the principal and interest on borrowed
196 funds;

197 (b) To create and maintain such reserves as may be prudent and necessary;

198 (c) To meet the cost of, and to provide for, maintaining and operating the
199 projects (including necessary reserves therefore and the cost of any insurance and of
200 administrative expenses); and

201 (d) To make such payments in lieu of taxes and, after payment in full of all
202 obligations for which federal annual contributions are pledged, to make such repayments
203 of federal and local contributions as it determines are consistent with the maintenance of
204 the low-rent character of projects.

205 5.3 Rentals or payments for dwellings shall be established and the projects
206 administered insofar as possible, so as to assure that any federal financial assistance
207 required shall be strictly limited to amounts and periods necessary to maintain the low-rent
208 character of the projects. Nothing herein shall be construed to limit the amount the
209 Authority may charge for non-dwelling facilities. All such income, together with other
210 income and revenue, shall be used in the operation of the projects to aid in accomplishing
211 the public purposes set out in this Resolution.

212 **6. HOUSING RENTALS AND TENANT ADMISSIONS**

213 6.1 The Topeka Housing Authority shall do the following:

214
215 Rent or lease the dwelling accommodations in a housing complex only to persons
216 of low income and at rentals within the financial reach of such persons.

217 Rent or lease to a tenant such dwelling accommodations consisting of the number
218 of rooms which it deems necessary to provide safe and sanitary accommodations to the
219 proposed occupants thereof, without overcrowding.

220 Fix income limits for occupancy and rents after taking into consideration the family
221 size, composition, age, physical handicaps, and other factors that might affect the rent
222 paying ability of the family, including the economic factors which affect the financial
223 stability and solvency of the project.

224 6.2 In computing the rental for this purpose of admitting tenants, there shall be
225 included in the rental the average annual cost (as determined by the Authority) to
226 occupants of heat, water, electricity, gas, cooking fuel and other necessary services or
227 facilities, whether or not the charge for such services and facilities is included in the rental.

228 6.3 The Topeka Housing Authority will agree to conditions as to tenant eligibility
229 or preference required by the federal government pursuant to federal law in any contract
230 for financial assistance. Further, notwithstanding the provisions hereof, nothing herein
231 shall be construed to limit the amount of rental that the Authority may charge or the
232 tenants that the Authority may admit for non-dwelling facilities. All such rental, together
233 with other income and revenue, shall be used in the operation of the complexes to aid in
234 accomplishing the public purposes of this Resolution.

235 6.4 Nothing contained in this or any preceding section shall be construed as
236 limiting the power of the Topeka Housing Authority, with respect to a housing complex,
237 to vest in an obligee the right, in the event of a default by the Authority, to take possession

238 or cause the appointment of a receiver thereof, free from all the restrictions imposed by
239 this or the preceding section.

240 7. **EXEMPTION FROM SPECIAL ASSESSMENTS**

241 7.1 The property acquired or held pursuant to this Resolution is declared to be
242 public property used exclusively for essential city, municipal public and governmental
243 purposes and such property shall be exempt from all special assessments of the state or
244 of any state public body. In lieu of taxes on such property the Authority agrees to make
245 payments to the City as is consistent with the maintenance of the low-rent character of
246 housing complexes and the achievements of the purposes of this Resolution.

247 8. **PLANNING, ZONING, AND BUILDING REQUIREMENTS**

248 8.1 All housing initiatives of the Authority shall be subject to the planning,
249 zoning, sanitary and building laws, ordinances and regulations applicable in the City of
250 Topeka.

251 9. **REMEDIES OF AN OBLIGEE**

252 9.1 An obligee of the Authority shall have the right in addition to all other rights
253 which may be conferred on such obligee, subject only to any contractual restrictions
254 binding upon any such obligee:

255 (a) By mandamus, suit, action or proceeding at law or in equity to compel said
256 Authority, and the commissioners, officers, agents employees thereof to perform each
257 and every term, provision and covenant contained in any contract of said Authority
258 with or for the benefit of such obligee, and to require the carrying out of any or all such
259 covenants and agreements of said Authority and the fulfillment of all duties by this
260 Resolution.

261 (b) By suit, action or proceeding in equity, to enjoin any acts or things which
262 may be unlawful or the violation of any of the rights of such obligee of said Authority.

263 10. **EXEMPTION OF PROPERTY FROM EXECUTION SALE**

264 10.1 All property (including funds) owned or held by the Authority under the terms
265 of this Resolution shall be exempt from levy and sale by virtue of an execution, and no
266 execution or other judicial process shall issue against the same nor shall any judgment
267 against the Authority be a charge or lien upon such property; provided, however, that the
268 provisions of this section shall not apply to or limit the right of obligees to foreclose or
269 otherwise enforce any mortgage or other security executed or issued pursuant to this
270 Resolution or the right of obligees to pursue any remedies for the enforcement of any
271 pledge or lien on rents, fees or revenues or the right of the federal government to pursue
272 any remedies conferred upon it pursuant to the provisions of the Kansas municipal
273 housing law and this Resolution.

274 11. **AID FROM THE FEDERAL GOVERNMENT**

275 11.1 In addition to the powers conferred upon the Authority by other provisions
276 of this Resolution, the Authority is empowered to borrow money or accept contributions,
277 grants or other financial assistance from the federal government for or in aid of any
278 housing complex within its area of operation, to take over, lease or manage any complex
279 or undertaking constructed or owned by the federal government, and to these ends, to
280 comply with such conditions and enter into such contracts, covenants, mortgages, trust
281 indentures, leases or agreements as may be necessary, convenient or desirable.

282 11.2 It is the purpose and intent of this Resolution to authorize the Authority to
283 do any and all things necessary or desirable to secure the financial aid or cooperation of
284

285 the federal government in the undertaking construction maintenance or operation of any
286 housing complex by such Authority. To accomplish this purpose the Authority,
287 notwithstanding the provisions of any other law, may include in any contract for financial
288 assistance with the federal government any provisions, which the federal government may
289 require as conditions to its financial aid of a housing complex, not inconsistent with the
290 purposes of this Resolution.

291 **12. TRANSFER OF POSSESSION OR TITLE TO THE FEDERAL**
292 **GOVERNMENT**

293 12.1 In any contract with the federal government for annual contributions to the
294 Authority, the Authority may obligate itself (which obligation shall be specifically
295 enforceable and shall not constitute a mortgage, notwithstanding any other law) to convey
296 to the federal government possession of or title to the housing complex to which such
297 contract relates, upon the occurrence of a substantial default (as defined in such contract)
298 with respect to covenants or conditions to which the Authority is subject; and such
299 contract may further provide that in case of such conveyance, the federal government
300 may complete, operate, manage, lease, convey, or otherwise deal with the housing
301 complex and funds in accordance with the terms of such contract: Provided, that the
302 contract requires that, as soon as practicable after the federal government is satisfied that
303 all defaults with respect to the housing complex have been cured and that the housing
304 complex will thereafter be operated in accordance with the terms of the contract, the
305 federal government shall reconvey to the Authority the housing complex as then
306 constituted.

307 **13. REPORTS AND RECOMMENDATIONS**

308 13.1 At least once a year, the Authority shall file with the clerk a report of its
309 activities for the preceding year, and shall make recommendations with reference to such
310 additional resolutions and/or ordinances or other action on the part of the City as it deems
311 necessary in order to carry out the purposes of this Resolution.

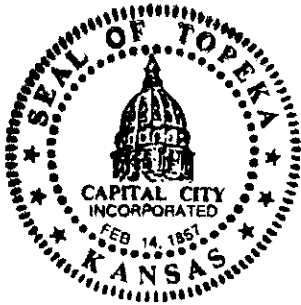
312 **14. INVALIDITY OF PART**

313 14.1 If any provision of this Resolution, or the application thereof to any person
314 or circumstance, is held invalid, illegal, or otherwise unenforceable by a court of
315 competent jurisdiction, the remainder of the resolution and the application of such
316 provision to persons or circumstances other than those as to which it is held invalid, shall
317 not be affected thereby and shall continue in full force and effect.

318 **15. EFFECTIVE DATE AND LEGAL BASIS**

319 15.1 This Resolution shall take effect on January 1, 2001, at which time
320 Resolution Nos. 2431, 2564, 4696, 5598, and any other resolutions in conflict with this are
321 rescinded. This Resolution is pursuant to the authority granted to the City Council in the
322 Kansas municipal housing law, K.S.A. 17-2337 *et seq.*

323 ADOPTED and APPROVED by City Council NOV 28 2000



CITY OF TOPEKA, KANSAS

Joan Wagon
Joan Wagon, Mayor

332 ATTEST:

333
334 *Iris E. Walker*
335 Iris E. Walker, City Clerk
336
337

APPROVED AS TO FORM AND LEGALITY	
DATE <u>11/28/00</u>	BY <i>[Signature]</i>