

TRIBAL ORDINANCE
(as amended)¹

Pursuant to the authority vested in the Tribal Council of the Confederated Tribes and Bands of the Yakama Indian Nation (hereinafter referred to as the “Tribe”), and particularly by Resolution T-38-56, Section 4, Sub-Section b thereof, and its authority to provide for the health, safety, morals and welfare of the Tribe, the Tribal Council of said Tribe hereby charters a public corporation known as the Yakama Nation Housing Authority (hereinafter referred to as the “Authority”), and enacts this ordinance which shall constitute the charter of the Authority.

In any suit, action or proceeding involving the validity or enforcement of or relating to any of its contracts, the Authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this ordinance. A copy of the ordinance duly certified by the Secretary of the Council shall be admissible in evidence in any suit, action or proceeding.

I. DECLARATION OF NEED

IT IS HEREBY DECLARED:

a. That there exists on the Yakama Indian Reservation insanitary, unsafe and overcrowded dwelling accommodations; that there is 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 insanitary, unsafe and overcrowded dwelling accommodation;

b. That these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the Reservation; that these conditions necessitate excessive and disproportionate expenditures of public funds of crime prevention and punishment, public health and safety protection, fire and accident prevention, and other public services and facilities;

c. That the shortage of safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprise;

d. That the clearance, replanning and preparation for rebuilding of these areas and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of Tribal concern;

¹The Yakama Tribal Council originally adopted this Tribal Ordinance by T-94-77 (June 21, 1977). It was amended by T-137-94 on July 7, 1994, by T-076-03 on February 6, 2003, by T-173-06 on September 7, 2006, and by T-036-10 on December 3, 2009. This document incorporates those amendments.

e. That residential construction activity is an important factor to general economic activity and the undertakings authorized by this ordinance to aid the production of better housing and more desirable neighborhood and community development at lower costs will make possible a more stable and larger volume of residential construction activity which will assist materially in maintaining full employment; and

f. That the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

II. PURPOSES

The Authority shall be organized and operated for the purposes of:

a. Remediating on the Reservation unsafe and insanitary housing conditions that are injurious to the public health, safety and morals;

b. Alleviating the acute shortage of decent, safe and sanitary dwelling for families of low income; and

c. Providing employment opportunities on the Reservation through the construction, reconstruction, improvement, extension, alteration or repair and operation of low income dwellings.

III. DEFINITIONS

The following terms, wherever used or referred to in this ordinance, shall have the following respective meanings, unless a different meaning clearly appears from the context:

“Area of Operation” means all areas within the jurisdiction of the Tribe.

“Board” means the Board of Commissioners of the Authority.

“Council” means the Yakama Tribal Council.

“Federal government” includes the United States of America, the Department of Housing and Urban Development, or any other agency of instrumentality, corporate or otherwise, of the United States of America.

“Homebuyer” means a person(s) who has executed a lease purchase agreement with the Authority, and who has not yet achieved homeownership.

“Housing project” or “project” means any work or undertaking to provide or assist in providing (by a suitable method, including but not limited to: rental; sale of individual units in single or multi-family structures under conventional condominium or cooperative sales contracts or lease purchase agreements; loans, or subsidizing of rentals

or charges) decent, safe and sanitary dwellings, apartments, or other living accommodations for persons of low income. Such work or undertaking may include buildings, land, leaseholds, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation of landscaping, and for administrative, community, health, recreational, welfare, or other purposes. The term “housing project” or “project” also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the improvements of other property and all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

“Obligations” means any notes, bonds, interim certificates, debentures, or other forms of obligation issued by the Authority pursuant to this ordinance.

“Obligee” includes any holder of an obligation, agent to the Authority property used in connection with a project, or any assignee or assignees of such lessor’s interest or any part thereof, and the Federal government when it is a party to any contract with the Authority in respect to a housing project.

“Persons of low income” means persons or families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use.

IV. BOARD OF COMMISSIONERS

1. (a) (1) The affairs of the Authority shall be managed by a Board of Commissioners comprising five members-at-large and one ex-officio Tribal Council Housing Committee member.

(2) The Commissioners shall be appointed, and may be reappointed, by the Tribal Council. A certificate of the Secretary of the Council as to the appointment or reappointment of any commissioner shall be conclusive evidence of the due and proper appointment of the commissioner.

(3) No persons shall be barred from serving on the Board because he/she is a tenant or homebuyer in a housing project of the Authority; and such commissioner shall be entitled to fully participate in all meetings concerning matters that affect all of the tenants or homebuyers, even though such matters affect him/her as well. However, no such commissioner shall be entitled or permitted to participate in or be present at any meeting (except in his capacity as a tenant or homebuyer).

(b) Each member-at-large of the Board of Commissioners shall be appointed for a four-year term of office and the terms shall be staggered. In the case of a vacancy, any appointment shall be only for the length of the unexpired term. The term of office of the ex-officio Tribal Council Housing Committee member shall conform to the

organization of the Council establishing the Housing Committee. Each member of the Board shall hold office until his successor has been appointed and has qualified.

(c) The Council shall name one of the Commissioners as Chairman of the Board. The Board shall elect from among its members a Vice-Chairman, a Secretary, and a Treasurer; and any member may hold two of these positions. In the absence of the Chairman, the Vice-Chairman shall preside; and in the absence of both the Chairman and the Vice-Chairman, the Secretary shall preside.

(d) A member of the Board may be removed by the appointing power for serious inefficiency or neglect of duty or for misconduct in office, but only after a hearing before the appointing power and only after the member has been given a written notice of the specific charges against him at least 10 days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or by counsel and to present witnesses on his behalf. In the event of removal of any Board member, a record of the proceedings, together with the charges and findings thereon, shall be filed with the appointing power and a copy thereof sent to the appropriate office of the Department of Housing and Urban Development.

(e) The Commissioners shall not receive compensation for their service but shall be entitled to compensation for expenses, including travel expenses, incurred in the discharge of their duties.

(f) A majority of the full Board (i.e., notwithstanding the existence of any vacancies) shall constitute a quorum for the transaction of business, but no Board action shall be taken by a vote of less than a majority of such full Board.

(g) The Secretary shall keep complete and accurate records of all meetings and actions taken by the Board.

(h) The Treasurer shall keep full and accurate financial records, make periodic reports to the Board, and submit a complete annual report in written form, to the Council as required by Article VII, Section 1, of this ordinance.

2. Meetings of the Board shall be held at regular intervals as provided in the Bylaws. Emergency meetings may be held upon 24 hours actual notice and business transacted, provided that not less than a majority of the full Board concurs in the proposed action.

V. POWERS

1. The Authority shall have perpetual succession in its corporate name.

2. The Authority shall have the power to sue, and where the Board has adopted an appropriate Resolution, pursuant to Tribal law, give consent to be sued in its own name subject to the requirements of this section.

a. The Tribe expressly reserves all its inherent sovereign rights, privileges and immunities as a federally-recognized Indian tribe with respect to the creation, existence and activities of the Authority, including the Tribe's sovereign immunity from suit in any court. Nothing in this Ordinance nor any conduct of the Authority shall be deemed to be a waiver of sovereign immunity from suit of the Tribe, or a consent by the Tribe to jurisdiction of the United States, any state, or any tribe with regard to the business or affairs of the Authority or the Tribe.

b. The Authority is clothed by federal and tribal law with tribal sovereign immunity from suit in any state, federal or tribal court. Nothing in this Ordinance shall be deemed or construed to be a waiver of the sovereign immunity of the Authority from suit (which may only be waived pursuant to subsection c. below), or a consent by the Authority or the Tribe to jurisdiction of the United States, any state, or any tribe with regard to the business or affairs of the Authority or the Tribe.

c. The Authority may adopt specific, limited waivers of its sovereign immunity only by affirmative and express written Resolution of the Board. Waivers are disfavored and may only be granted by the Authority when necessary to secure a substantial advantage or benefit to the Authority. Waivers of sovereign immunity must be specific and limited as to duration, grantee, transaction, property, funds, if any, of the Authority subject thereto, the court having jurisdiction pursuant thereto, and the law applicable thereto.

d. Neither the power to sue and be sued as provided in this Ordinance, nor any express waiver of sovereign immunity by Resolution of the Board, shall be deemed a consent to the levy of any judgment, lien or attachment upon property of the Authority other than property specifically pledged or assigned, or upon any property of the Tribe, or a consent to suit in respect of any tribal land, or a consent to the alienation, attachment or encumbrance of any such land.

3. The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:

(a) To adopt and use a corporate seal.

(b) To enter into agreements, contracts and understandings with any governmental agency, Federal, state or local (including the Council) or with any person, partnership, corporation or Indian tribe; and to agree to any conditions attached to Federal financial assistance.

(c) To agree, notwithstanding anything to the contrary contained in this ordinance or in any other provision of law, to any conditions attached to Federal financial

assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or operation of projects; and the Authority may include in any contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the Federal government may have attached to its financial aid to the project.

(d) To obligate itself, in any contract with the Federal government for annual contributions to the Authority, to convey to the Federal government possession of or title to the project to which such contract relates, upon the occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the Authority is subject; and such contract may further provide that in case of such conveyance, the Federal government may complete, operate, manage, lease, convey or otherwise deal with the project and funds in accordance with the terms of such contract: Provided, that the contract requires that as soon as practicable after the Federal government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the Federal government shall reconvey to the Authority the project as then constituted.

(e) To lease property from the Tribe and others for such periods as are authorized by law, and to hold and manage or to sublease the same.

(f) To borrow or lend money, to issue temporary or long term evidence of indebtedness, and to repay the same. Obligations shall be issued and repaid in accordance with the provisions of Article VI of this ordinance.

(g) To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.

(h) To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law.

(i) To undertake and carry out studies and analysis of housing needs, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof.

(j) With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project (including individual cooperative or condominium units): To lease or rent, sell, enter into lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of tenants or homebuyers, including the establishment of priorities, and concerning the occupancy, rental, care and management

of housing units; and to make such further rules and regulations as the Board may deem necessary and desirable to effectuate the powers granted by this ordinance.

(k) To finance purchase of a home by an eligible homebuyer in accordance with regulations and requirements of the Department of Housing and Urban Development.

(l) To terminate any lease or rental agreement or lease-purchase agreement when the tenant or homebuyer has violated the terms of such agreement, or failed to meet any of its obligations under the provisions of such agreement; and to bring action for eviction against such tenant or homebuyer.

(m) To establish income limits for admission that insure that dwelling accommodations in a housing project shall be made available only to persons of low income.

(n) To purchase insurance from any stock or mutual company for any property or against any risk or hazards.

(o) To invest such funds as are not required for immediate disbursement.

(p) To establish and maintain such bank accounts as may be necessary or convenient.

(q) To employ an executive director, technical and maintenance personnel and such other officers and employees, permanent or temporary, as the Authority may require; and to delegate to such officers and employees such powers or duties as the Board shall deem proper.

(r) To take such further actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.

(s) To join or cooperate with any other public housing agency or agencies operating under laws or ordinances of a State or another tribe in the exercise, either jointly or otherwise, of any or all of the powers of the Authority and such other public housing agency or agencies for the purpose of financing (including but not limited to the issuance of notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects of the Authority or such other public housing agency or agencies. For such purposes, the Authority may by resolution prescribe and authorize any other public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authority's agent or otherwise, in the name of the Authority or in the name of such agency or agencies.

(t) To adopt such bylaws as the Commission deems necessary and appropriate.

4. It is the purpose and intent of this ordinance to authorize the Authority to do any and all things necessary or desirable to secure financial aid or cooperation of the Federal government in the undertaking, construction, maintenance or operation of any project by the Authority.

5. No ordinance or other enactment of the Tribe with respect to the acquisition, operation or disposition of Tribal property shall be applicable to the Authority in its operations pursuant to this ordinance.

VI. OBLIGATIONS

1. The Authority may issue obligations from time to time in its discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations as it may determine, including obligations on which the principal and interest are payable: (a) exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income and revenues together with a grant from the Federal government in aid of such project; (b) exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or (c) from its revenues generally. Any such obligations may be additionally secured by a pledge of any revenues of any project or other property of the Authority.

2. Neither the commissioners of the Authority nor any person executing the obligations shall be liable personally on the obligations by reason of issuance thereof.

3. The notes and other obligations of the Authority shall not be a debt of the Tribe and the obligations shall so state on their face.

4. Obligations of the Authority are declared to be used for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes imposed by the Tribe. The tax exemption provisions of this ordinance shall be considered part of the security for the repayment of obligations and shall constitute, by virtue of this ordinance and without necessity of being restated in the obligations, a contract between (a) the Authority and the Tribe, and (b) the holders of obligations and each of them including all transferees of the obligations from time to time.

5. Obligations shall be issued and sold in the following manner:

(a) Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Board and may be issued in one or more series.

(b) The obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide.

(c) The obligations may be sold at public or private sale at not less than par.

(d) In case any of the commissioners of the Authority whose signatures appear on any obligations cease to be commissioners before the delivery of such obligations, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners had remained in office until delivery.

(e) Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any obligation of the Authority or the security therefor, any such obligation reciting in substance that it has been issued by the Authority to aid in financing a project pursuant to this ordinance shall be conclusively deemed to have been issued for such purpose, and the project for which such obligation was issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purpose and provisions of this ordinance.

7. In connection with the issuance of obligations or in curing the obligations under leases and to secure the payment of such obligations, the Authority, subject to the limitations in this ordinance, may:

(a) Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.(b) Provide for the powers and duties of obligees and limit their liabilities; and provide the terms and conditions on which such obligees may enforce any convenient or rights securing or relating to the obligations.

(c) Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property.

(d) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof.

(e) Covenant as to what other or additional debts or obligations may be incurred by it.

(f) Covenant as to the obligations to be issued and as to the issuance of such obligations in escrow or otherwise, and as to the use and disposition of the proceeds thereof.

- (g) Provide for the replacement or lost, destroyed or mutilated obligations.
- (h) Covenant against extending the time for the payment of its obligations or interest thereon.
- (i) Redeem the obligations and covenant for their redemption and provide the terms and conditions thereof.
- (j) Covenant concerning the rents and fees to be charged in the operation of a project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof.
- (k) Create or authorize the creation of special funds for monies held for construction or operating costs, debt service, reserve or other purposes, and covenant as to the use and disposition of the monies held in such funds.
- (l) Prescribe the procedure, if any, by which the terms of any contract with holders of obligations may be amended or abrogated, the proportion of outstanding obligations the holders of which must consent thereto, and the manner in which such consent may be given.
- (m) Covenant as to the use, maintenance and replacement of its real or personal property, the insurance to be carried thereon and the use and disposition of insurance monies.
- (n) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it or any covenant, condition or obligation.
- (o) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (p) Vest in any obligees or any proportion of them the right to enforce the payment of the obligations or any covenant securing or relating to the obligations.
- (q) Exercise all or part or combination of the powers granted in this section.
- (r) Make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character.
- (s) Make any covenants and do any acts and things necessary or convenient or desirable in order to secure its obligations, or, in the absolute discretion of the Authority, tending to make the obligations more marketable although the covenants, acts or things are not enumerated in this section.

VII. MISCELLANEOUS

1. The Authority shall submit an annual report, signed by the Chairman of the Board, to the Council showing (a) a summary of the year's activities; (b) the financial condition of the Authority; (c) the condition of the properties; (d) the number of units and vacancies; (e) any significant problems and accomplishments; (f) plans for the future; and (g) such other information as the Authority or the Board deem pertinent.

2. During his tenure and for one year thereafter, no commissioner, officer or employee of the Authority, or any member of any governing body of the Tribe, or any other public official who exercises any responsibilities or functions with regard to the project shall voluntarily acquire any interest in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition, he discloses his interest in writing to the Authority and such disclosure is entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest. If any commissioner, officer, or employee of the Authority involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as a commissioner, officer or employee, in any such event, shall immediately disclose his interest in writing to the Authority, and such disclosure shall be entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property of contract in which he has any such interest. Any violation of the foregoing provisions of this section shall constitute misconduct in office. This section shall not be applicable to the acquisition of any interest in obligations of the Authority issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Board as provided in Article IV, Section 1 (a) (4).

3. Each project developed or operated under a contract providing for Federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable Federal legislation, and with all regulations and requirements prescribed from time to time by the Federal government in connection with such assistance.

4. The Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents or employees handling cash or authorized to sign checks or certify vouchers.

5. The Authority shall not construct or operate any project for profit.

6. The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Tribe.

7. All property including funds acquired or held by the Authority pursuant to this ordinance shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the Authority be a charge or lien upon such property. However, the provisions of this section shall not apply to or limit the right to obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues or the right of the Federal government to pursue any remedies conferred upon it pursuant to the provisions of this ordinance or the right of the Authority to bring eviction actions in accordance with Article V, Section 3 (1).

VIII. COOPERATION IN CONNECTION WITH PROJECTS

1. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of projects, the Tribe hereby agrees that:

(a) It will not levy or impose any real or personal property taxes or special assessments upon the Authority or any project of the Authority.

(b) It will furnish or cause to be furnished to the Authority and the occupants of projects all services and facilities of the same character and to the same extent as the Tribe furnishes from time to time without cost or charge to other dwellings and inhabitants.

(c) Insofar as it may lawfully do so, it will grant such deviations from any present or future building or housing codes of the Tribe as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development and protection of such project, and the surrounding territory.

(d) It will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of projects.

(e) The Tribal government hereby declares that the powers of the Tribal government shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations including action through the appropriate courts.

(f) The Tribal Government shall have jurisdiction to hear and determine an action for eviction of a tenant or homebuyer. The Tribal Government hereby declares that the powers of the Tribal Courts shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations.

2. The provisions of this Article shall remain in effect with respect to any project and said provisions shall not be abrogated, changed, or modified without the consent of the Department of Housing and Urban Development, so long as (a) the project is owned by a public body or governmental agency and is used for low income housing purposes, (b) any contract between the Authority and the Department of Housing and Urban Development for loans or annual contributions, or both, in connection with such project, remains in force and effect, or (c) any obligations issued in connection with such project or any moneys due to the Department of Housing and Urban Development in connection with such project remain unpaid, whichever period ends the latest. If at any time title to, or possession of, any project is held by any public body or government agency authorized by law to engage in the development or operation of low income housing, including the federal government, the provisions of this section shall inure to the benefit of and be enforced by such public body or governmental agency.

IX. APPROVAL BY SECRETARY OF THE INTERIOR

With respect to any financial assistance contract between the Authority and the Federal Government, the Authority shall obtain the approval of the Secretary of the Interior.

###