

Submitted By: Councilor Sheila Tyson,
Public Improvement & Beautification Committee Chair

Recommended By: Public Improvement & Beautification Committee

RESOLUTION NO. 928-14

**A RESOLUTION AUTHORIZING THE INCORPORATION OF THE
BIRMINGHAM LAND BANK AUTHORITY
UNDER CHAPTER 9 OF TITLE 24 OF THE CODE OF ALABAMA (1975)**

WHEREAS, the Comprehensive Plan for the City of Birmingham was reviewed and recommended for adoption by the Planning Commission's Comprehensive Planning Committee on March 28, 2013; and

WHEREAS, the policy goals, strategies and actions identified within the elements of the Comprehensive Plan have been carefully reviewed and evaluated by concerned residents, numerous city departments, public agencies, neighborhood representatives, civic leaders, and public officials involved in the planning process; said elements include several policies and procedural reform initiatives necessary to implement the Comprehensive Plan including the creation of a land bank authority, adoption of a new housing code, reform of code enforcement procedures, and several other critical elements; and

WHEREAS, the Alabama Legislature has enacted the Alabama Land Bank Authority Act, as amended, which, is set forth in Chapter 9 of Title 24 of the Code of Alabama (1975) (hereinafter, the "Enabling Act"); and

WHEREAS, the stated purpose of the Enabling Act is to provide for the creation of an authority to acquire "tax delinquent properties in order to foster the public purpose of rehabilitating land which is in a nonrevenue-generating, nontax-producing status to an effective utilization status in order to provide housing, new industry, and jobs for the citizens;" and

WHEREAS, the Enabling Act provides that if the number of tax delinquent properties in a municipality exceeds 1,000, then the governing body of that municipality may adopt a resolution declaring that it is wise, expedient, and necessary that a local land bank authority be formed by the municipality; and

WHEREAS, the Council of the City of Birmingham has found and determined that the City of Birmingham has a number of tax delinquent properties within its corporate limits which is well in excess of 1,000; and

WHEREAS, the Council of the City of Birmingham desires to create a local land bank authority as provided in the Enabling Act; and

WHEREAS, the Council of the City of Birmingham does hereby find and determine that a "Land Bank Citizens Advisory Board" should be created to provide input to the land bank authority regarding community priorities for properties eligible for the land bank and other vacant or tax delinquent properties throughout the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BIRMINGHAM, ALABAMA, as follows:

Section 1. The Council of the City of Birmingham, as the governing body of this City and in accordance with the Enabling Act, Section 24-9-10 of the Code of Alabama (1975), does hereby: (1) find and determine that that it is wise, expedient, and necessary that a local land bank authority be formed; and (2) approve the formation of said authority and the certificate of incorporation of the authority in substantially the same form as set forth below:

**CERTIFICATE OF INCORPORATION
OF
BIRMINGHAM LAND BANK AUTHORITY**

May ____, 2014

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, in order to incorporate the Birmingham Land Bank Authority (hereinafter referred to as the "Authority") a public corporation under and pursuant to the provisions of Chapter 9 of Title 24 of the Code of Alabama (1975) (hereinafter referred to as the "Enabling Act"), do hereby make, sign, execute, acknowledge and file this certificate of incorporation:

ARTICLE ONE

The name of the local unit of government forming the Authority is the City of Birmingham.

ARTICLE TWO

The Authority is established as a separate legal entity and public body corporate. The name of the Authority shall be "Birmingham Land Bank Authority". Attached hereto as **Exhibit "A"** is a Certificate by the Alabama Secretary of State, that the name proposed for the Authority is not

identical with that of any other corporation in the state or so nearly similar thereto as to lead to confusion and uncertainty.

ARTICLE THREE

A Board of Directors (hereinafter referred to as the "Board") shall govern the Authority and the number of directors of the Authority shall be seven.

ARTICLE FOUR

The Board shall be selected as follows. The Council of the City of Birmingham shall recommend four directors for the Board. These shall be known as "Director 1," "Director 2," "Director 3," and "Director 4." For "Director 1," "Director 2," "Director 3," and "Director 4", the Council of the City of Birmingham shall strongly consider selecting directors with expertise and experiences in careers or activities involving real estate, property management, finance, real estate law, transit planning, residential contracting, banking, architecture or city planning.

The Office of the Mayor of the City of Birmingham shall recommend three directors for the Board. These shall be known as "Director 5," "Director 6," and "Director 7." The Mayor will serve as Director 5, Director 6, or Director 7, unless he or she decides not to serve on the Board.

Director 5 shall be a professional in the Finance or Banking industry with experience in lending, finance and/or tax credits for residential and commercial properties. This member should also have experience with affordable and low-income housing.

Director 6 shall be a registered architect, Landscape Architect or City Planner with experience in long range planning and neighborhood/community master planning.

Director 7 shall be a specialist in housing-related activities with experience in developing affordable housing for low- and moderate-income families or a member of a non-profit involved in affordable housing for residents of the City of Birmingham.

The Council of the City of Birmingham shall appoint all directors other than the Mayor, if he/she chooses to serve on the Board. All directors of the board must be residents of the City of Birmingham. Directors shall receive no compensation for their service but may be reimbursed for expenses incurred in the performance of their duties. The Mayor shall be the only elected official eligible to serve on the Board, if he/she chooses to serve on the Board.

If he/she chooses to serve on the Board, the Mayor's term shall coincide with his/her term of office. All other directors shall serve four-year terms. The term of office for all appointed directors shall be staggered. The initial directors other than the Mayor, if applicable, shall serve the following terms. Directors 1, 4 and 7 shall serve two-year terms. Directors 2 and 5 shall serve three-year terms. Directors 3 and 6 shall serve four-year terms.

Each director appointed by the Council, including a director appointed to fill a vacancy, shall hold office until the expiration of the term for which he or she was appointed. With the

exception of the Mayor, if a director is absent for more than half of the board's meetings in a twelve-month period, the director may be removed from the Board by a vote of the City Council in accordance with the by-laws of the authority. The Directors must complete an Alabama Ethics Law course during their first year on the Board.

ARTICLE FIVE

The Board shall adopt by-laws for the Authority within two months of its incorporation.

ARTICLE SIX

The duration of the Authority shall be perpetual, subject to the provisions of the Enabling Act.

ARTICLE SEVEN

The Authority may be dissolved by joint action of the Authority and the Council of the City of Birmingham. Upon dissolution of the Authority, after payment of all liabilities of the Authority, title to all funds and properties owned by the Authority shall be conveyed and distributed to, and shall vest in, the City of Birmingham, Alabama.

ARTICLE EIGHT

The Authority shall be organized and operated as a local land bank authority under the provisions of Enabling Act. The Authority shall have all of the powers, duties, functions, rights, privileges, immunities, and responsibilities of a local land bank authority pursuant to the Enabling Act.

ARTICLE NINE

The Authority shall be a non-profit corporation and no part of the net earnings thereof shall inure to the benefit of any private person or entity of any nature whatsoever.

ARTICLE TEN

The Authority shall provide an annual public report of activities to the Council of the City of Birmingham at least one month prior to the end of each fiscal year of the City. Said report shall include parcels obtained, owned and conveyed, as well as operating expenditures and revenues.

ARTICLE ELEVEN

The Authority shall not obligate the City of Birmingham nor shall any obligation of the Land Bank constitute an obligation of the City of Birmingham.

ARTICLE TWELVE

At the time that the Authority sells or otherwise disposes of the tax delinquent property as part of its land bank program, the proceeds of the sale shall be distributed in accordance with the Enabling Act, as currently in effect or hereafter amended. According to current state law, the proceeds of the sale of tax delinquent property shall be distributed equally as follows:

- a. One-third to the operations of the Authority;
- b. One-third to the recovery of Authority expenses;
- c. One-third to the recipients of the ad-valorem taxes, within the jurisdiction of the tax delinquent property, including the appropriate schools districts, in proportion to and to the extent of their respective tax bills and costs.

ARTICLE THIRTEEN

Initially, the location of the principal office of the Authority shall be City Hall, 710 20th Street North, Birmingham, Alabama 35203 and the registered agent shall be the City Clerk of the City of Birmingham, Office of the City Clerk, Third Floor City Hall, 710 20th Street North, Birmingham, Alabama 35203.

ARTICLE FOURTEEN

The names and address of the incorporators are:

William A. Bell, Sr., Mayor of the City of Birmingham
Johnathan F. Austin, Council President
James "Jay" Roberson, Council President Pro-Team
Valerie A. Abbott, City Councilor
Steven W. Hoyt, City Councilor
Marcus Lundy, City Councilor
William Parker, City Councilor
Kim Rafferty, City Councilor
Lashunda Scales, City Councilor
Sheila Tyson, City Councilor
Third Floor City Hall
710 20th Street North,
Birmingham, Alabama 35203

ARTICLE FIFTEEN

On the ____ day of May, 2014, the Council of the City of Birmingham, Alabama, adopted a resolution in which permission to organize the Authority was granted and which approved and authorized the incorporation of the Authority in accordance with the Enabling Act, a certified copy of which resolution is attached hereto as **Exhibit B** and made a part hereof.

IN WITNESS WHEREOF, the undersigned have signed this Certificate of Incorporation on and as of the date and year first above written.

William A. Bell, Sr.

Johnathan F. Austin

James “ Jay” Roberson

Valerie A. Abbott

Steven W. Hoyt

Marcus Lundy

William Parker

Kim Rafferty

Lashunda Scales

Sheila Tyson

Section 2. That the Council of the City of Birmingham does hereby grant permission to form, incorporate and organize the Authority and does hereby authorize to proceed to file the certificate of incorporation and to take all other necessary action to incorporate and organize the Authority pursuant to and in accordance with the Enabling Act.

Section 3. That a Land Bank Citizens Advisory Board (hereinafter referred to as “LBCAB”) be created to consist of eleven members. Nine members shall be appointed by the Council of the City of Birmingham, with the tenth and eleven members to be appointed by the Mayor of the City of Birmingham. The nine members appointed by the Council shall be comprised of one member from each of the nine council districts following nomination by the councilor for the respective district.

That the LBCAB shall serve solely in an advisory capacity, and the members of the LBCAB shall not be compensated.

That each member of the LBCAB shall serve a term of two years, ending on December 31 of the second year following appointment, and members be re-elected for no more than one additional consecutive two-year term. Members of the LBCAB appointed by the Council will serve at the pleasure of Council and may be removed by resolution of the Council with or without cause. The member of the LBCAB appointed by the Mayor will serve at the pleasure of Mayor and may be removed by written notice from the Mayor to such member, the LBCAB and the Authority with or without cause.

That the LBCAB shall elect a chair, vice-chair and secretary from among its members. The chair shall attend and represent the LBCAB at board meetings of the Authority and will be responsible for ensuring open lines of communication between the LBCAB and the Authority.

That it shall be the function and purpose of the LBCAB to:

- a. Advise the Board on matters relating to the business and affairs of the Authority;
- b. Be available for consultation with regard to projects or activities which the Authority may undertake, consistent with the Authority’s purposes in furtherance of the Authority’s goals and objectives;
- c. Ensure the continual and meaningful involvement of residents of the City of Birmingham in all Authority’s activities;
- d. Advocate for the purpose and programs of the Authority in the community, including:
 1. attending community meetings and functions;
 2. identifying themselves to the community as LBCAB members;
 3. informing the community of the Authority’s purpose, policies, programs and events and gathering input and information regarding community opinions and concerns with the land bank authority;
 4. distributing information about the land bank authority to the community;
 5. building a communication strategy beyond community meetings and coordinating efforts to disseminate information regarding the land bank authority to the community through social media, civic organizations, press coverage, etc.
- e. Inform the Authority of the impact to and perception of its policies and programs in the community.
- f. Relate back to the Authority any community questions, concerns and positive reactions that the community has.
- g. Notify the Authority of community programs and events that are relevant to the

Authority's mission.

- h. If a member of the LBCAB is absent for more than half of the board's meetings in a twelve-month period, the member may be removed from the Board by a vote of the City Council in accordance with the by-laws of the authority.

Section 4. That this resolution shall take effect immediately upon publication hereof as provided by law.

Adopted by the Council May 6, 2014 and Approved by the Mayor May 13, 2014



A CERTIFIED COPY
Lee Frazier, City Clerk
Birmingham, AL
Lee Frazier