

SPECIAL MEETING**Board of Directors Meeting****June 27, 2017****10:30 a.m.****Agenda**

1. Roll Call
2. Public Comment **Page**
3. Memorandum of Understanding Between the Philadelphia Land Bank, The City of Philadelphia, Philadelphia School District and Philadelphia Gas Works to Coordinate the Handling of Tax Delinquent Real Estate Properties (1)
4. Delegation of Limited Authority to Land Bank Officers and Executive Director for Acquisition of Tax Sale Properties in Accordance with Strategic Plan (10)
5. Adjournment

This meeting is open to the public

MEMORANDUM

Date: June 27, 2017
To: Board of Directors
From: Land Bank Staff
Re: Memorandum of Understanding among the City of Philadelphia, Philadelphia School District and Philadelphia Land Bank to Coordinate Handling of Tax Delinquent Properties

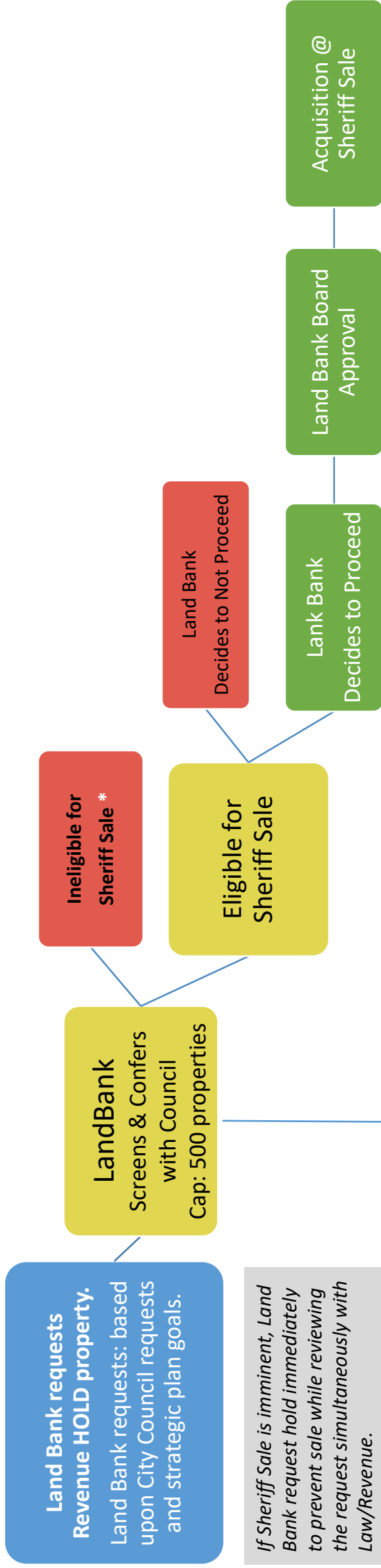
The Land Bank intends to begin a regular monthly process of acquiring tax delinquent properties to fulfill the goals and objectives approved by the Board through adoption of the Land Bank Strategic Plan. Before we implement acquisition of tax delinquent properties, there must be an understanding among the Land Bank, the City of Philadelphia and the Philadelphia School District to manage this process which respects both the interests of the Land Bank to repurpose tax delinquent property and the City's mandate to maximize revenues for the City and School District.

The Memorandum of Understanding (MOU) under consideration proposes a process which allows the Land Bank to evaluate whether it should acquire privately-owned properties before those properties are scheduled for tax sale. In cooperation with the City's Revenue, Finance and Law Departments, the Land Bank may request that properties be withheld from sale for a specified time so that we can gather information necessary to decide whether acquisition of a particular property is in the best interests of the Land Bank and would serve the goals of our Strategic Plan.

While this MOU creates a unified and systematic approach to the evaluation and selection of properties for acquisition, the MOU does not authorize acquisition of any specific property or payment of any delinquent municipal charges. We hope to provide such authorizations through the Board's delegation to Board Officers and staff as suggested in the accompanying resolution.

The process detailed in the MOU is displayed graphically in the attached flow chart.

Proposed Land Bank Acquisition Process



Revenue/Law Review:

(max 120 days)

- Law/Revenue Review (Complete within 21 day, unless extension requested)
- Land Bank Staff confirm interest (include discussion of use with District Council Office)
- Day 90 Hold Expires (Unless 60 extension requested by Land Bank)

*Note: Legally, properties are ineligible for Sheriff Sale if:

- Account is tax compliant (paid in full or in an approved payment agreement)
- Court-ordered stay or postponement
- Account under appeal (either assessment or I&P)
- Bankruptcy
- Already sold at Sheriff Sale (write off of debts is pending)
- Reasonable suspicion that underlying lien is defective

RESOLUTION NO. 2017 -

**RESOLUTION APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN THE
PHILADELPHIA LAND BANK, THE CITY OF PHILADELPHIA, PHILADELPHIA
SCHOOL DISTRICT AND PHILADELPHIA GAS WORKS TO COORDINATE THE
HANDLING OF TAX DELINQUENT REAL PROPERTIES**

WHEREAS, the Philadelphia Land Bank intends to acquire certain tax delinquent property which the City of Philadelphia (the “City”) will expose to sheriff sale pursuant to the Municipal Claim and Tax Lien Law (“Tax Sales”);

WHEREAS, the City understands the value and benefit of the Land Bank and the special powers granted to it by the General Assembly to acquire and repurpose vacant tax delinquent properties for the benefit of the City and its citizens;

WHEREAS, the Land Bank understands the value and benefit of swift and consistent enforcement of tax delinquencies to maximize revenues for the benefit of the City and Philadelphia School District and their residents and students;

WHEREAS, the City and the Land Bank wish to create a process that respects both the Land Bank’s interest in acquiring properties it identifies as necessary to implement its Strategic Plan and the City’s interest in using Tax Sales as part of its revenue collection process;

WHEREAS, the City and Land Bank have developed a Memorandum of Understanding which creates a mutually acceptable process for the Land Bank to identify and acquire tax delinquent properties while making payment to the City for certain real property delinquent taxes; and

WHEREAS, the Board has considered the Memorandum of Understanding and finds that its adoption to be in the best interests of the Land Bank.

NOW THEREFORE, BE IT RESOLVED by the Board of Directors of the Philadelphia Land Bank that the Board Chair or Board Vice-Chair:

1. May enter into the Memorandum of Understanding with the City of Philadelphia, the School District of Philadelphia and the Philadelphia Gas Works which is attached to this Resolution.
2. With the advice of counsel, may allow modifications to the attached Memorandum of Understanding which are in the best interests of the Land Bank and which do not materially alter the substantive process now represented in the attached Memorandum of Understanding.

MEMORANDUM OF UNDERSTANDING

Between the Philadelphia Land Bank, The City of Philadelphia, The School District of Philadelphia, and Philadelphia Gas Works to Coordinate the Handling of Tax Delinquent Real Properties

This Memorandum of Understanding (“MOU”) is made as of the _____ day of _____ 2017, by and between the **Philadelphia Land Bank** (the “Land Bank”); **The School District of Philadelphia** (the “School District”), acting by and through the **School Reform Commission** (“SRC”); the **Philadelphia Gas Works** (“PGW”), by and through Philadelphia Facilities Management Corporation solely in its capacity as manager of PGW for the City of Philadelphia pursuant to a certain Management Agreement dated as of December 29, 1972, as amended; and **The City of Philadelphia** (the “City”), by and through its Office of the Director of Finance (“Finance”), Department of Revenue (“Revenue”) and Law Department (“Law,” and together with Finance and Revenue, the “Departments”). For purposes of collection activity, Law shall include any outside counsel authorized by the Law Department to collect real estate taxes.

WHEREAS, the Land Bank was created pursuant to authorization of 68 Pa. C.S. § 2101 *et seq.* and Section 16-700 of the Philadelphia Code, Bill No. 130156-A; and

WHEREAS, the parties understand the value and benefit of the Land Bank and the special powers granted to it by the General Assembly to acquire and repurpose vacant tax delinquent properties for the benefit of the City and its citizens; and

WHEREAS, the parties understand the value and benefit of swift and consistent enforcement of tax delinquencies to maximize revenues for the benefit of the City and School District and their residents and students; and

WHEREAS, City Council approved the Land Bank’s Strategic Plans for 2015, 2016 and 2017 (collectively, the “Strategic Plan”) by adopting Resolution No. 140915 on December 11, 2014, Resolution No. 150905 on December 3, 2015 and Resolution No. 170051 on March 9, 2017, respectively; and

WHEREAS, the City, by and through the Departments, is committed to supporting and providing resources to the Land Bank for the acquisition and repurposing of blighted properties, whether through Sheriff Sale for delinquent municipal claims or otherwise, which acquisition and repurposing is a critical part of fulfilling the Land Bank’s Strategic Plan; and

WHEREAS, pursuant to Sections 8-410 and 4-400 of the Philadelphia Home Rule Charter (the “Charter”), Law shall collect or settle all overdue and unpaid debts, taxes and accounts due the City; and

WHEREAS, pursuant to Article VI of the Charter and other applicable law, the Department of Collections (now known as Revenue), under the supervision of Finance, accounts for all such debts, taxes, and claims; collects many of them until they are turned over to Law; and assesses or audits most taxes; and

WHEREAS, pursuant to Sections 12-305(b) of the Charter (Education Annex), Section 19-1802 of the Philadelphia Code, and Sections 8-410 and 4-400 of the Charter, Law also serves as collection counsel for the School District; and

WHEREAS, the Departments’ collection process for real estate taxes and other municipal claims frequently results in petitions to sell the delinquent property at Sheriff Sale under the Municipal Claim and Tax Lien Law (“Tax Sales”); and

WHEREAS, in many cases a property that the Departments take to Tax Sale is of interest to the Land Bank; and

WHEREAS, few of the properties of interest to the Land Bank are likely to sell at Tax Sales for as much as or more than the value of the property assessed by the City's Office of Property Assessment ("OPA"), and some of these properties would be unlikely to sell at all; and

WHEREAS, all parties agree that increasing the number of properties sold at Tax Sales is likely to increase the collection of real estate taxes and municipal claims paid on such properties, both immediately and going forward; and

WHEREAS, the undersigned wish to create a process that respects both the Land Bank's interest in properties it identifies as important to the Strategic Plan and the Departments' interest in using Tax Sales as part of their collection process; and

WHEREAS, by Resolution _-_, adopted on ____ __, 2017, the SRC authorized the School District to execute, deliver and perform this MOU;

NOW, THEREFORE, it is agreed as follows:

1. Hold Requests.

a. By notice to the other parties, the Land Bank shall designate no more than three persons ("Requestors") who may request a hold on a delinquent property ("Hold Request") on behalf of the Land Bank by notice to the Departments with a copy to PGW. The Departments will not consider requests from anyone other than a Requestor to hold properties on behalf of the Land Bank. All Hold Requests shall include the OPA number for the property in question. The Land Bank shall make a good faith effort, using Revenue Department delinquency data, to minimize the submission of properties that would be deemed Ineligible for Tax Sale based on the criteria outlined in section 3(a).

b. The Land Bank may not have in effect at any given time more than five hundred (500) Hold Requests. As properties are removed from the hold list, including properties that the Land Bank has approved for acquisition with adequate funding and those that are placed back onto the Tax Sale list, the Land Bank can request an equivalent number of holds up to the five hundred (500) limit.

2. One Hundred Twenty (120) Day Hold. Upon receipt of a Hold Request from a Requestor, the Departments shall flag the relevant delinquent account to prevent the property from being exposed to Tax Sale for one hundred twenty (120) days. A Hold Request shall not automatically stay the filing of a Rule to Show Cause with the Common Pleas Court, although the Departments, in their discretion, may choose not to proceed with such a filing after receiving a Hold Request. A Hold Request shall prevent the Departments from entering into a payment agreement, other than an Owner-Occupied Payment Agreement under Section 19-1305 of the Philadelphia Code or as mandated by law or by a court or regulatory authority. A Hold Request shall prevent the City or PGW from entering into a payment agreement for Water or PGW debts if the agreement would have the effect of delaying a Tax Sale, other than an agreement mandated by law or by a court or regulatory authority.

3. Prompt Evaluation by the Departments. Within three weeks of receiving a Hold Request, or within an additional three weeks thereafter if the City gives notice of such extension to the Land Bank within the initial three weeks, the City (through any of the Departments copying the others) will submit written notice to the Land Bank that it has placed the property into one of two categories – Eligible for Tax Sale or Ineligible for Tax Sale. If the City has placed the property into the category, Eligible for Tax Sale, written notice will include the City's best estimate as to the earliest practicable date the property will be moved through the Tax Sale process and will copy PGW. If the City has placed the property into the category, Ineligible for Tax Sale, the shared tracking document used by the Departments and the Land Bank will include the reason why the property is ineligible, among those reasons listed in subsection (a) and, if applicable, have specified the nature of the reasonable suspicion that lien(s) are defective.

4. Eligibility for Sale and Terms of Sale

a. Properties marked Ineligible for Tax Sale are not available for acquisition and will be removed from the requested holds list. Properties shall be ineligible if:

- The account is tax compliant (either full payment or approved payment agreement).
- A court-ordered stay or postponement is in place.
- The account is under appeal.
- The owner is in bankruptcy.
- The lien(s) have been discharged in a prior Tax Sale.
- The Departments have a reasonable suspicion that the lien(s) are defective.

b. For properties marked Eligible for Tax Sale, the Departments and PGW will determine the total Real Estate balance and Water and PGW debt due, including interest, penalties, and other charges at the time of the review request, as well as the assessed values of the properties as determined by the Office of Property Assessment, and will include this information in a notice to the Land Bank.

c. For properties deemed Eligible for Tax Sale and which are acquired by the Land Bank at a Tax Sale, the Land Bank will be required to pay the Sheriff's costs and the total Real Estate, Water and PGW liens due, up to the assessed value. The amount of those liens will be determined at the time of the Tax Sale. Liens for other municipal claims will be waived in all cases, regardless of the property's assessed value. The Land Bank will take responsibility for any higher priority liens that survive the Tax Sale.

d. For properties where the Sheriff's costs and the Real Estate, Water and PGW liens due, together with any prior liens such as certain federal and Commonwealth liens, exceed the OPA assessed value, the Land Bank will be required to pay the assessed value and the amount of the Sheriff's costs. Where the Land Bank pays the assessed value and that amount is not sufficient to satisfy both the real estate taxes and the Water and PGW debt, the amount paid will be applied first to Sheriff's costs, then to any liens with priority over real estate taxes, then to real estate taxes, and finally, if funds remain, to Water and to PGW claims; and all remaining balances will be zeroed out as of the date of sale. Where this agreement results in the need to remove liabilities from City accounts, Law will handle that in its capacity as collection counsel for both the City and the School District.

5. Discharge of Liens and Waiver of Payment

a. The Land Bank's bid at Tax Sale shall be the full amount due for all City Liens and PGW Liens as of the date of the Tax Sale. City Liens include liens for the City's real estate taxes, water/sewer bills, and any other municipal claims with the exception of any liens of or for PGW.

b. After acquisition by the Land Bank at Tax Sale and payment by the Land Bank of the amount due under Section 4, Law will coordinate with the Land Bank and the Departments to effectuate the removal, release and discharge of any City Liens to be discharged under Section 4, from the Prothonotary's records and/or the Department of Records and/or the City's tax collection records to ensure that the Land Bank will acquire the property free and clear of real estate taxes and municipal claims. Similarly, PGW will coordinate with the Land Bank to effectuate the removal, release and discharge of any PGW Liens to be discharged under Section 4, from the Prothonotary's records and/or the records of PGW.

6. Prompt Follow-Up by the Land Bank. As soon as practicable after making a Hold Request and receiving a determination on candidates marked Eligible for Tax Sale, but in no case later than thirty (30) days before the hold expires, the Land Bank shall evaluate whether it in fact intends to

acquire the property and shall give notice of that decision to the Departments and PGW. Once the Land Bank gives notice that it would like to take a property by Tax Sale, the Departments promptly will remove the hold request and move the property through the Tax Sale process.

7. Hold Released After One Hundred Twenty (120) Days. If at the end of one hundred twenty (120) days from receipt of a Hold Request, the Departments communicate the expiration of the hold period on a property and the Land Bank has neither communicated that it plans to acquire that property nor requested a Hold Extension pursuant to section 8, the flag may be removed from the property and ordinary collection – including Tax Sale – may resume.

8. Sixty (60) Day Hold Extension. Upon a request from a Requestor on a specific property, a hold may be extended for an additional sixty (60) days to enable the Land Bank to gather further information and make a decision, or to enable the parties to continue to discuss proper terms of Land Bank acquisition. Those extension requests shall be granted at least once, and may be granted thereafter, as long as the total number of Hold Requests remains within the agreed-upon limit of five hundred (500).

9. Sole Process. The process outlined above shall be the exclusive means of suspending collection activity in behalf of the Land Bank. The Land Bank and the Departments shall communicate this policy to their employees and to interested third parties.

10. Notice of Termination. This MOU shall be terminable at the option of any party upon providing sixty (60) days notice to all other parties. The Departments will facilitate completion of the acquisition of any properties approved by the Land Bank prior to the effective date of such notice.

11. Notice. Any notice shall be given in writing by hand delivery or by first-class mail, or by email with the subject line “Notice – Land Bank MOU,” directed as follows, or to such other person as a party or Department may later designate by notice to the other parties:

Notice to the City or to Finance shall be sent to:

[Name], [Title]
City of Philadelphia, Office of the Director of Finance
13th Floor, 1401 JFK Boulevard
Philadelphia PA 19102
xxxxx.xxxx@phila.gov

Notice to the City or to Revenue shall be sent to:

Frank Breslin, Revenue Commissioner
City of Philadelphia, Department of Revenue
6th Floor, 1401 JFK Boulevard
Philadelphia PA 19102
Frank.Breslin@phila.gov

Notice to the City or to Law shall be sent to:

[Name], [Title]
City of Philadelphia, Law Department
5th Floor, 1401 JFK Boulevard
Philadelphia PA 19102
*****.*****@phila.gov

Notice to PGW shall be sent to:

[Name], [Title]
Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia PA 19122
*****.*****@pgworks.com

Notice to the School District shall be sent to:

Name, Title
School District of Philadelphia
440 N. Broad Street
Philadelphia PA 19130
*****.****@pgworks.com

Notice to the Land Bank shall be sent to:

Frederick S. Purnell, Sr., Chairman
Philadelphia Land Bank
17th Floor, 1234 Market Street
Philadelphia PA 19107
Frederick.Purnell@phila.gov

[The remainder of this page has been left blank intentionally. Signature page follows.]

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound, have caused this MOU to be executed by their respective duly authorized officers as of the date first set forth above.

PHILADELPHIA LAND BANK

By: _____
Frederick S. Purnell, Chairman

THE CITY OF PHILADELPHIA

Approved as to form
Sozi Pedro Tulante, City Solicitor

By: _____
Sozi Pedro Tulante, City Solicitor

By: _____
Daniel W. Cantú-Hertzler, Senior Attorney

By: _____
Rob Dubow, Director of Finance

By: _____
Frank Breslin, Revenue Commissioner

PHILADELPHIA GAS WORKS, by and through
Philadelphia Facilities Management Corporation
solely in its capacity as manager of PGW for the City of
Philadelphia pursuant to a certain Management
Agreement with the City of Philadelphia dated
December 19, 1972, as amended

By: _____
[Name], [Title]

THE SCHOOL DISTRICT OF PHILADELPHIA

Approved as to Form Only:

Attorney for The School District of
Philadelphia

By: _____
Joyce S. Wilkerson, Chair
School Reform Commission

MEMORANDUM

Date: June 27, 2017
To: Board of Directors
From: Land Bank Staff
Re: Delegation of Limited Authority to Land Bank Board Officers and Executive Director for
Acquisition of Tax Delinquent Property

As shown in the preceding Board item relating to the Memorandum of Understanding among the City of Philadelphia, the Philadelphia School District, Philadelphia Gas Works and the Philadelphia Land Bank, the Land Bank expects to begin acquiring tax delinquent property placed for sale at the several monthly tax sales conducted by the Law Department and its outside counsel. Presently, there are 4 such sales each month.

Our prior practice has been to obtain specific Board approval for each property that the Land Bank wished to acquire at tax sale. Going forward, the volume of acquisitions will increase significantly once the MOU is implemented. In many cases, the Land Bank must decide quickly whether it should bid for a property to prevent its sale to the public or to avoid additional expenses to postpone or stay the sale.

We propose that the certain Board Officers and the Executive Director be granted limited, controlled and supervised authority to bid for those Tax Sale Properties which are eligible for acquisition and which support the goals of the Land Bank's Strategic Plan. Initially, we propose to allow expenditure by these individuals of up to \$250,000 for these acquisitions – an amount significantly below the proposed FY budget for payment of City and School District liens of 2.75 Million Dollars.

There will be monthly reporting to the Board of properties acquired and payments made, along with how each property is intended to be used when conveyed, all in keeping with the Strategic Plan.

RESOLUTION NO. 2017 -

**RESOLUTION GRANTING AUTHORIZATION TO ACQUIRE TAX DELINQUENT
PROPERTY THROUGH SHERIFF SALE, SUBJECT TO CERTAIN TERMS AND
CONDITIONS**

WHEREAS, the Commonwealth Land Bank Act, 68 Pa. C.S.A. §§ 2101, *et seq.*, authorizes a land bank to bid for and acquire property exposed for sale pursuant to the Municipal Claim and Tax Lien Law, 53 P.S. §§ 7101, *et seq.*;

WHEREAS, Section 16-705(3)(b) of the Philadelphia Code authorizes the Land Bank to acquire tax delinquent properties at sales conducted by, or on behalf of, the City of Philadelphia (“Tax Sale Properties”);

WHEREAS, the Land Bank finds that the acquisition of Tax Sale Properties which meet the criteria of its Strategic Plan can be better managed by delegating the ability to bid for and acquire certain Tax Sale Properties in amounts consistent with the Land Bank’s annual budget.

NOW THEREFORE, BE IT RESOLVED by the Philadelphia Land Bank that:

1. The Board Chair, the Board Vice-Chair and the Executive Director are each authorized, subject to the terms of this Resolution, to bid for and acquire Tax Sale Properties.
2. The maximum expenditure for acquisition of Tax Sale Properties as authorized by this Resolution shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000) without further approval and authorization of the Board.
3. The Executive Director shall report at each Regular Meeting of the Board on a cumulative basis: (a) the address of all Tax Sale Properties acquired; (b) the amount paid to the City to satisfy or remove all municipal and School District charges; and (c) the proposed disposition use of the property in a category shown in the Strategic Plan.
4. Upon request of a majority of the Board, Land Bank staff shall provide such other information to allow the Board to properly supervise and control this delegation of authority.
5. Those Land Bank staff authorized to execute documents on behalf of the Land Bank by Resolution No. 2016 – 20 are hereby granted authorization to execute and deliver all such contracts, instruments and documents, and to pay all amounts, necessary or convenient to carry out the foregoing authorization.