

CERTIFICATE OF FORMATION
OF
MOBILE AREA LODGING CORPORATION

BE IT KNOWN THAT the undersigned, acting as incorporator of the Mobile Area Lodging Corporation, a nonprofit corporation formed pursuant to the Alabama Nonprofit Corporation Act, Sections 10-3A-1, *et seq.*, *Code of Alabama* (1975) (the "Alabama Nonprofit Corporation Act") and Act No. 2004-382 of the Legislature of the State of Alabama (the "Self-Help Business Improvement District Act"), does hereby adopt the following Certificate of Formation:

Article I
Name

The name of the corporation is the Mobile Area Lodging Corporation (the "Corporation").

Article II
Period of Duration

The period of duration of the Corporation is perpetual unless and until it is hereafter lawfully dissolved.

Article III
Purposes

- A. The Corporation is organized exclusively to improve business conditions and the business environment for lodging businesses in the City of Mobile within the meaning of Section 501(c)(6) of the Internal Revenue Code of 1986, as amended (the "Code"). In furtherance of such purpose, the Corporation is organized and will be primarily operated as follows:
- (1) The Corporation is organized as a district management corporation representing lodging property owners within a self-help business

improvement district, the Mobile Tourism Improvement District, which shall be located within the City of Mobile, Alabama (the "MTID"), and established pursuant to the Self-Help Business Improvement District Act and an ordinance to be hereafter adopted by the City of Mobile as required by the Self-Help Business Improvement District Act (the "MTID Ordinance").

- (2) The Corporation will execute self-help programs to improve the local business climate and provide administrative and other supplemental services to benefit lodging properties within the MTID.
- B. Notwithstanding any other provision of this Certificate of Formation, the Corporation shall not be operated or carry on any activities, and no part or portion of the assets or net earnings of the Corporation shall be used, for any purposes not permitted for an organization exempt from federal income taxation under Section 501(c)(6) of the Code or the corresponding provisions of any subsequent federal law.
- C. The Corporation is not organized for pecuniary profit and shall not be operated for the primary purpose of carrying on a trade or business for a profit.

Article IV Powers

- A. As a means of accomplishing the purposes of the Corporation, the Corporation shall have all of the common law and statutory powers of a nonprofit corporation organized under the Alabama Nonprofit Corporation Act pursuant to the provisions of the Self-Help Business Improvement District Act, including, without limitation, the power to:
 - (1) Adopt by-laws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;
 - (2) Employ persons as may be required, and fix and pay their compensation from funds available to the Corporation;
 - (3) Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grant or donation of

property or money;

- (4) Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the Corporation, including contracts with any person, firm, corporation, governmental agency or other entity;
- (5) Administer and manage corporate funds and accounts and pay corporate obligations;
- (6) Borrow money from private lenders or from governmental entities;
- (7) Enforce the conditions of any loan, grant, sale or lease made by the Corporation;
- (8) Provide services to the MTID supplemental to those provided by the City of Mobile;
- (9) Advertise the MTID and the lodging businesses included within the MTID;
- (10) Organize and promote special events in the MTID;
- (11) Provide special parking arrangements or management of ongoing parking programs for the MTID;
- (12) Participate in other governmental programs for which the Corporation is qualified and which are included in the Corporation's self-help business improvement plan prepared pursuant to the Self-Help Business Improvement District Act.
- (13) Undertake other activities or initiatives within the MTID as the Board of Directors of the Corporation deems appropriate and which are not inconsistent with this Certificate of Formation.

B. The specific powers described herein are not intended to limit or restrict in any manner the general powers of the Corporation; provided, however, that the powers of the Corporation shall be exercised solely and exclusively to advance the purposes of the Corporation as described in this Certificate of Formation and in such manner as is not prohibited by the Self-Help Business Improvement District Act or the MTID Ordinance.

- C. Notwithstanding any other provision of this Certificate of Formation, the Corporation's powers may not be exercised in any manner not permitted for an organization exempt from federal income taxation under Section 501(c)(6) of the Code or the corresponding provisions of any subsequent federal law.

Article V

Limitations Concerning Use of Funds

- A. No funds received by the Corporation from assessments on lodging properties located in the MTID shall be expended except in accordance with the budget adopted or amended pursuant to the provisions of the Self-Help Business Improvement District Act.
- B. No part of the net earnings of the Corporation shall inure to the benefit of or be distributed to the Corporation's directors, officers, or other private persons, and no private person shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation; provided, however, that persons rendering services to the Corporation to enable it to carry out the purposes for which it is organized may be paid reasonable compensation for such services and may be reimbursed for expenses actually incurred in the performance of such services, as approved by the Board of Directors.
- C. The Corporation shall not have or issue any shares of stock and shall not pay any dividends.
- D. The Corporation shall not make loans to any of its officers or directors.

Article VI

Membership

The Corporation shall have no members within the meaning of the Alabama Nonprofit Corporation Act.

Article VII
Board of Directors

- A. A Board of Directors shall manage the property, business and affairs of the Corporation. The number of directors shall be fixed by the By-Laws of the Corporation, and may be increased or decreased from time to time by amendment of the By-Laws, but in no case shall the number be less than three (3).
- B. The initial Board of Directors shall consist of nine (9) members. The names and addresses of the initial directors are set forth in Section F of this Article. At the first duly constituted meeting of the Board of Directors, the initial Directors shall draw lots to determine their individual terms. Of the nine (9) initial directors, three (3) shall serve an initial term of one (1) year, three (3) shall serve an initial term of two (2) years, and three (3) shall serve an initial term of three (3) years. Upon the expiration of each director's initial term of office, his or her successor shall be elected by a majority vote of the MTID lodging property representatives present after notice by first class mail, and shall hold office for a term of three (3) years. Vacancies on the Board of Directors resulting from death, resignation or removal shall be filled by the affirmative vote of a majority of the remaining members of the Board of Directors for the unexpired portion of the term.
- C. A majority of the members of the Board of Directors must be owners, or designated representatives of owners, of assessed lodging properties located in the MTID.
- D. The municipal representative designated by the Mayor of the City of Mobile, and by its City Council shall be authorized to attend and participate in regular and called meetings of the Board of Directors of the Corporation, but shall not vote on any matters considered by the Board of Directors.
- E. A director shall not receive any compensation for his or her service as a director, but shall be entitled to receive reimbursement for expenses actually incurred in the performance of his or her duties as approved by the Board of Directors.
- F. The names, addresses and terms of office of the initial members of the Board of Directors are as follows:

Name	Address
Kent Blackinton	64 South Water St., Mobile, AL 36602
Margo Gilbert	26 North Royal St., Mobile, AL 36602
Duncan Millar	950 West I-65 Service Rd., Mobile, AL 36609
Shannon Harris	5465 Highway 90 West (Government Blvd.), Tillmans Corner, AL 36619

Article VIII

By-Laws

The initial By-Laws of the Corporation shall be adopted by a majority vote of the initial members of the Board of Directors of the Corporation. The power to amend the By-Laws or to repeal the By-Laws and adopt new By-Laws shall be vested exclusively in the Board of Directors of the Corporation.

Article IX

Public Meetings and Suggestions

- A. The Corporation shall hold a general membership and public meeting at least once per year, appropriately advertised in the MTID at a place convenient to persons concerned with the operation of the MTID.
- B. The Corporation shall receive written suggestions from businesses in the MTID at any time.

Article X

Dissolution or Withdrawal of Designation as District Management Corporation

Upon dissolution, or upon withdrawal of the Corporation's designation as the district management corporation pursuant to the Self-Help Business Improvement District Act and the MTID Ordinance, all interests in and title to funds held by or for the Corporation, and all property of the Corporation shall be transferred and assigned to a successor district management corporation established pursuant to such Act, or if no successor district management organization exists, to the general fund of the City of Mobile, for use in funding the programs as the Board of Directors of the Corporation shall direct and designate.

Article XI

Liability

Pursuant to Section 10-11-1, *et. seq.*, *Code of Alabama* (1975), all non-compensated officers of the Corporation shall be immune from suit and not subject to civil liability arising from the conduct of the affairs of the Corporation except when the act or omission of such officer, which gives rise to a cause of action, amounts to willful or wanton misconduct or fraud, or gross negligence. For purposes of this Article, the term "officer" shall include the Corporation's officers, directors and trustees, and the members of any other governing body of the Corporation.

Article XII

Registered Office and Agent

The location and mailing address of the initial registered office of the Corporation and the name of the initial registered agent of the Corporation at such address is:

Kent Blackinton
64 S. Water Street
Mobile, Alabama 36602

Article XIII
Incorporator

The name and address of the incorporator of the Corporation is:


Kent Blackinton
64 S. Water Street
Mobile, Alabama 36602

Article XIII
Amendment of Certificate of Formation

The power to amend the Certificate of Formation shall be vested exclusively in the Board of Directors of the Corporation.

IN WITNESS WHEREOF, the incorporator has executed this Certificate of Formation on this 21 day of August, 2017.

INCORPORATOR:



Kent Blackinton

JOHN H. MERRILL
SECRETARY OF STATE

ALABAMA STATE CAPITOL
MONTGOMERY, AL 36130

STATE OF ALABAMA

I, John H. Merrill, Secretary of State of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

pursuant to the provisions of Title 10A, Chapter 1, Article 5, *Code of Alabama* 1975, and upon an examination of the entity records on file in this office, the following entity name is reserved as available:

Mobile Area Lodging Corporation

This name reservation is for the exclusive use of KENT BLACKINTON, 64 SOUTH WATER STREET, MOBILE, AL 36602 for a period of one year beginning August 2, 2017 and expiring August 2, 2018.



In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the City of Montgomery, on this day.

August 2, 2017
Date

John H. Merrill
Secretary of State

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Secretary Of State

01/007 8/03/2017

Credit Card Receipt

Card Num AMEX 05006 04/20
Auth Num 2017080300015756

Services Rendered \$25.00
Convenience Fee \$1.00

Total Amt Charged \$26.00