

**STATE OF ALABAMA  
COUNTY OF SHELBY**

**CERTIFICATE OF FORMATION OF  
MALLARD LANDING RESIDENTIAL ASSOCIATION, INC.**

The undersigned, for the purpose of forming a nonprofit corporation pursuant to the provisions of the Alabama Nonprofit Corporation Law, § 10A-3-1.01 et seq., Code of Ala. 1975, as amended, hereby adopt the following Certificate of Formation:

1. **NAME.** The name of the corporation is Mallard Landing Residential Association, Inc. (hereinafter referred to as the "Association").

2. **DURATION.** The period of duration of the Association shall be perpetual.

3. **PURPOSES.** The purposes for which the Association is organized are:

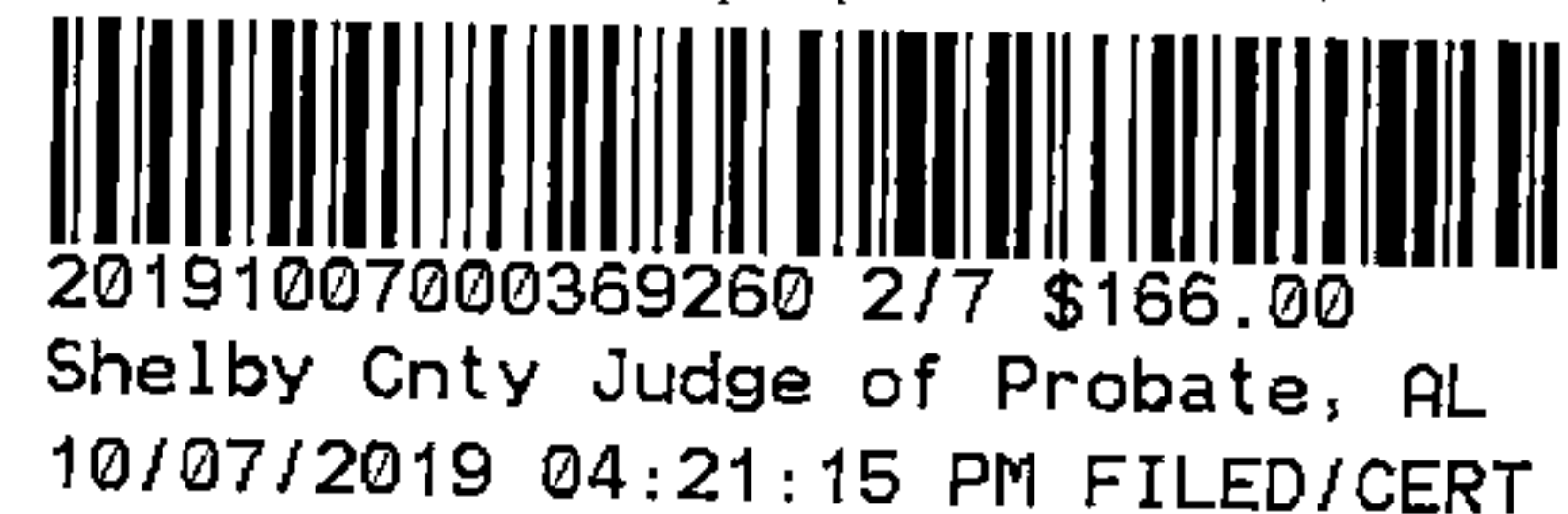
(a) To provide for the efficient preservation of the appearance, value and amenities of the property which is and may become subject to the Declaration of Protective Covenants for Mallard Landing, a residential subdivision located in Shelby County, Alabama (hereinafter referred to as the "Declaration"). Capitalized terms not otherwise defined herein shall have the same meanings given to them in the Declaration.

(b) To own, operate, maintain, manage, repair and replace Common Property which is subject to the Declaration.

(c) To the extent provided in the Declaration, to control the specifications, architecture, design, appearance, siting and landscaping of all Improvements to be constructed, placed or permitted to remain on any Lot or Dwelling in the Development and all alterations, changes and additions thereto.

(d) To perform and carry out the acts, duties, responsibilities and conditions delegated to the Association in the Declaration, this Certificate of Formation, the Bylaws of this Association and all amendments thereto.

(e) To the extent necessary to perform and carry out the acts, duties, responsibilities and conditions delegated to the Association in the Declaration, this Certificate of Formation, the Bylaws of this Association and all amendments thereto, to own, lease, license, operate, purchase, acquire, hold, improve, develop, manage, sell, convey, transfer, exchange, release and dispose of, either alone or in conjunction with others, real and personal property, tangible and intangible, of every kind, character and description.



(f) To enforce all of the terms and provisions of the Declaration and to make, establish and enforce reasonable rules and regulations governing the administration, operation and management of the property which is subject to the Declaration.

(g) To make, levy, collect and enforce Assessments, as defined in the Declaration, and to use and expend such Assessments in the manner set forth in the Declaration.

(h) To the extent necessary to perform and carry out the acts, duties, responsibilities and conditions delegated to the Association in the Declaration, this Certificate of Formation, the Bylaws of this Association and all amendments thereto, to employ personnel and contract for services, material and labor, including contracting for the management of the Common Areas and all other portions of the property which is the subject of the Declaration.

(i) To purchase and maintain insurance for such coverages, with such insurance carriers, in such amounts, at such rates and with such deductibles as may be necessary for the protection of the Association, its officers, directors and members.

(j) To enforce any of the provisions of the Declaration by legal and equitable actions as may from time to time be necessary.

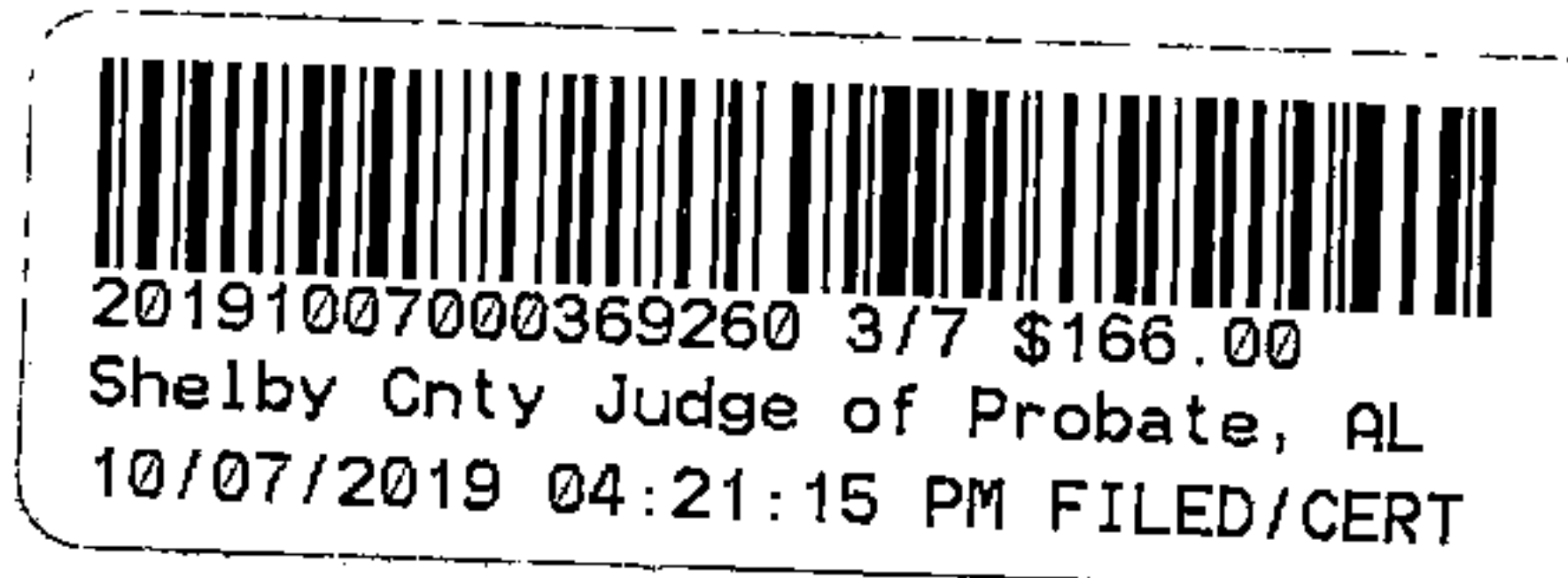
(k) To the extent necessary to perform and carry out the acts, duties, responsibilities and conditions delegated to the Association in the Declaration, this Certificate of Formation, the Bylaws of this Association and all amendments thereto, to enter into, make and perform contracts of every kind for any lawful purpose without limit as to amount, with any person, firm, association, partnership, limited partnership, limited liability company, corporation, municipality, county, state, territory, government, governmental subdivision, or body politic.

(l) To invest any and all funds coming into the hands of the Association on any account whatsoever only in such investments as a prudent man would make of his own property, having primarily in view the preservation of the principal and the amount and regularity of the income to be derived therefrom.

(m) To borrow money from any person, persons, firm, business, partnership, or corporation, with or without security, and if with security, with such security as the directors of the Association deem proper or appropriate, and, in connection with any borrowing of money by the Association, to issue evidences of indebtedness of such borrowing and to secure the same by mortgage, pledge or other lien on the Association's property.

(n) To operate without profit for the sole and exclusive benefit of its members. No part of the net earnings of the Association shall inure to the benefit of, or be distributable to, its Directors, officers, or other private persons, except that the Association shall be authorized and





empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in this Article 3 and in the Declaration. No substantial part of the activities of the Association shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Association shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

(o) To carry on any other business in connection with the foregoing, to exercise all powers and transact any or all lawful business for which corporations may be incorporated under the Alabama Nonprofit Corporation Law and the Alabama Homeowners' Association Act and as they now exist or as may be hereafter amended, and to have and exercise all powers necessary or convenient to effect the purposes of the Association in accordance with and subject to the terms and provisions of the Declaration.

(p) The foregoing clauses of this Article 3 shall be construed equally as objects, purposes and powers and the foregoing enumeration of specific objects, purposes or powers shall not be construed or held to limit or restrict in any manner the powers of the Association expressly conferred by law, except as expressly stated.

**THIS ASSOCIATION DOES NOT CONTEMPLATE PECUNIARY GAIN OR PROFIT FOR THE MEMBERS THEREOF AND THE FUNDS OF THE ASSOCIATION, WHETHER RECEIVED BY GIFT OR OTHERWISE, REGARDLESS OF THE SOURCE THEREOF, SHALL BE EXCLUSIVELY USED IN THE PROMOTION OF THE BUSINESS OF THE ASSOCIATION, AS THE BOARD OF DIRECTORS MAY FROM TIME TO TIME DETERMINE.**

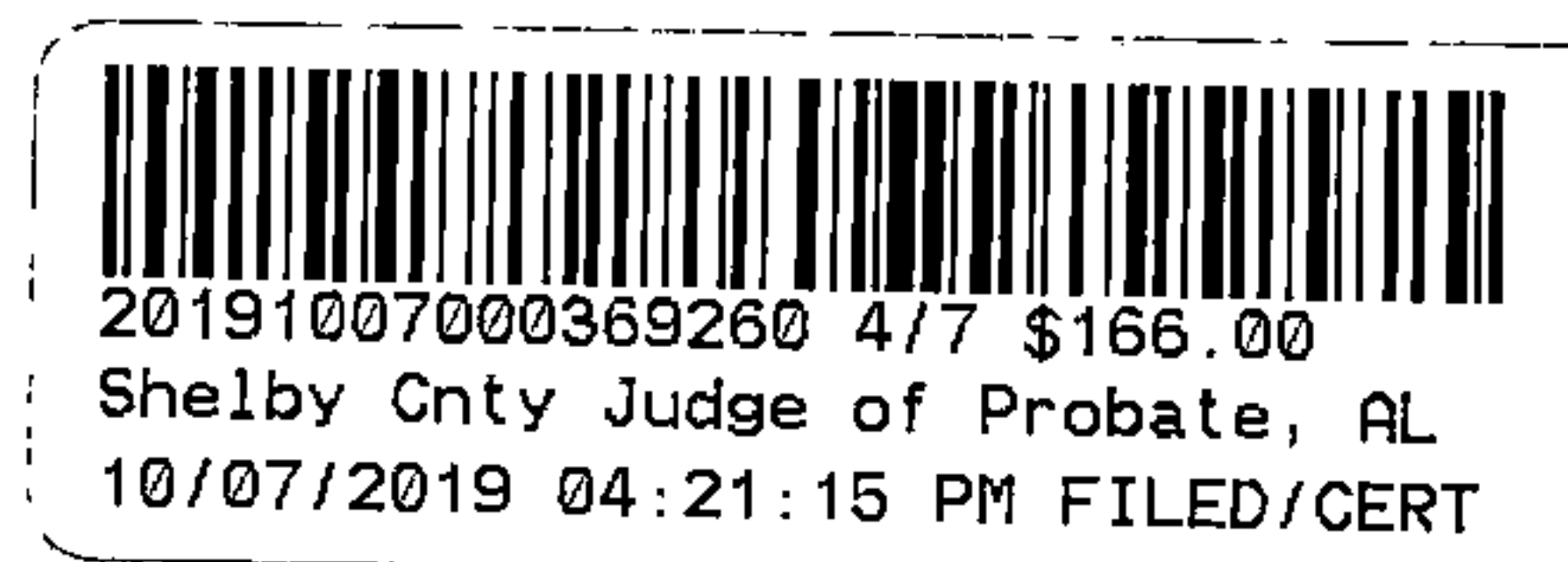
**4. INITIAL REGISTERED OFFICE AND AGENT.** The location and mailing address of the initial registered office of the Association, and the name of its initial registered agent at such address, are as follows:

Registered office: 100 Carrington Lane, Calera, AL 35040  
Registered agent: Jason E. Spinks

**5. NONSTOCK AND NONPROFIT STATUS.** The Association shall have no capital stock, is not organized for profit, and does not contemplate pecuniary gain or profit to the members thereof. No part of the earnings of the Association shall inure to the benefit of any member, individual officer, or director. The Association does not contemplate the distribution of gains, profits or dividends to the members thereof and is organized solely for nonprofit purposes.

**6. BOARD OF DIRECTORS:** The Association shall be governed by a Board of Directors. There shall be three initial Directors who shall serve until the first annual election of





Directors as provided in the bylaws. The number of Directors following the initial Directors, as well as their election, terms of office, and other provisions regarding the Directors shall be as provided in the bylaws. The names and addresses of the initial Directors are as follows:

Jason E. Spinks, 3360 Davey Allison Blvd., Hueytown, AL 35023  
Lakin C. Spinks, 1805 Chandcroft Dr., Pelham, AL 35124  
Camden B. Spinks, 1508 King George Dr., Alabaster, AL 35007

**7. MEMBERS.** The members of the Association shall consist of all Owners, including the Developer for so long as it is an Owner. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of any Lot. A member shall be entitled to all voting rights attributable to any Lots owned by the member. The members, subject to any restrictions set forth in the Declaration, may vote on all matters required to be voted on or approved by the members of the Association as provided in the Declaration and the bylaws of the Association. The voting rights of any member may be limited and suspended in accordance with the provisions of the Declaration or the bylaws.

**8. INCORPORATOR.** The name and address of each incorporator are as follows:

Jason E. Spinks, 100 Carrington Lane, Calera, AL 35040

**9. DISTRIBUTION OF ASSETS UPON DISSOLUTION.**

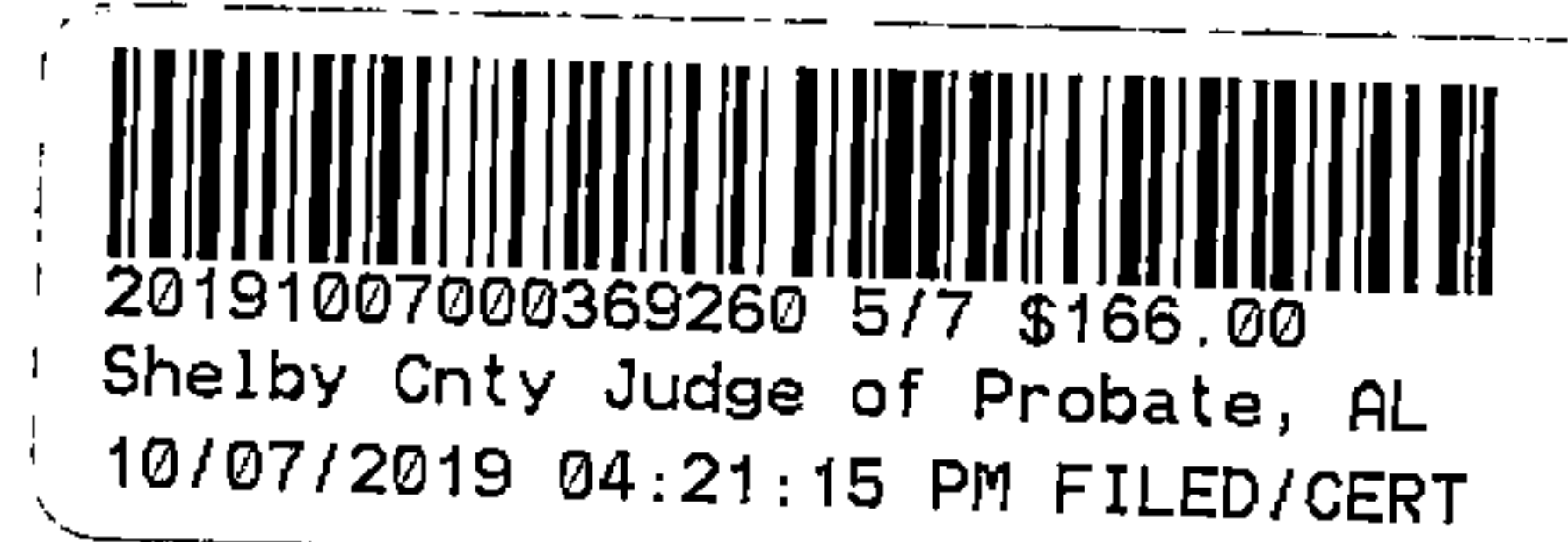
(a) Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed, unless otherwise agreed to the contrary in the plan of distribution, among the members of the Association, as tenants in common, with each member's share of the assets to be determined in accordance with its voting rights.

(b) Dissolution of the Association shall be accomplished as set forth in the Alabama Nonprofit Corporation Law.

**10. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS.**

(a) The Association may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil, criminal, administrative or investigative, including appeals (other than an action by or in the right of the Association), by reason of the fact that the person is or was a Director, officer, employee or agent of the Association, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person





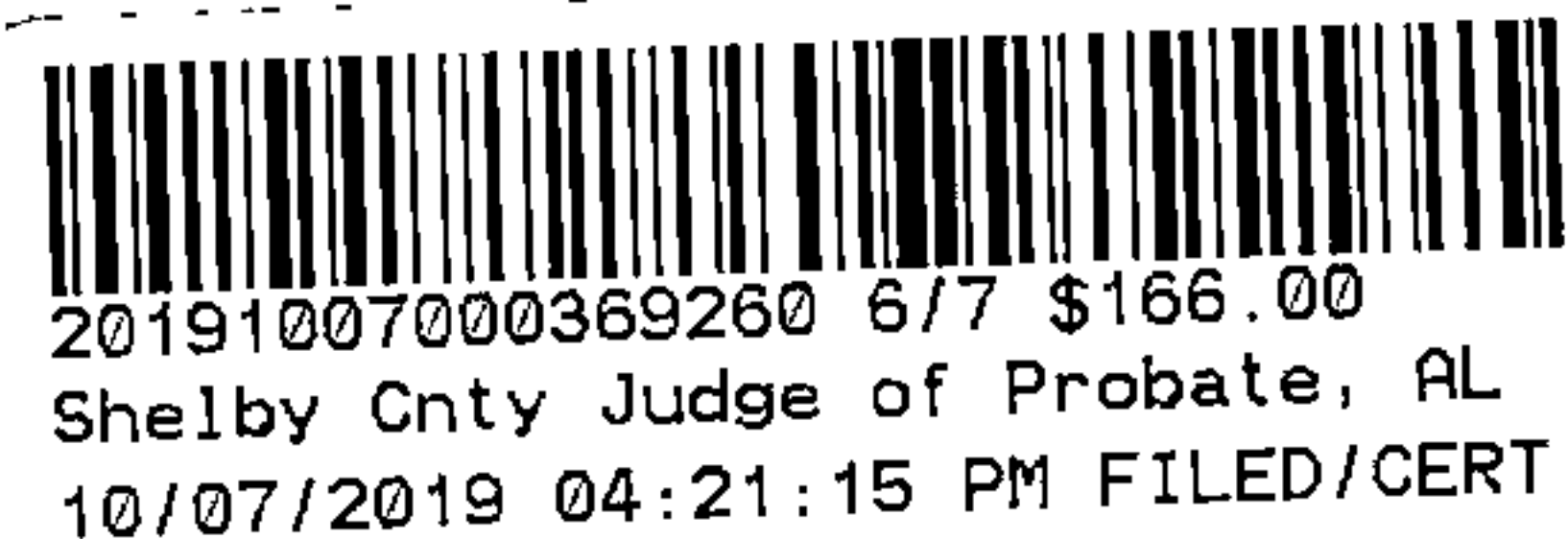
in connection with such claim, action, suit or proceeding if the party acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Association; and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that the person's conduct was unlawful.

(b) Any indemnification under Paragraph 10(a) above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee or agent is proper in the circumstances because the person has met the applicable standard of conduct set forth in Paragraphs 10(a) above. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion, or (3) by a majority vote of the members of the Association.

(c) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Association in advance of the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in Paragraph 10(b) above upon receipt of an undertaking by or on behalf of the Director, officer, employee or agent to repay such amount if and to the extent that it shall be ultimately determined that the person is not entitled to be indemnified by the Association as authorized in this Paragraph 10.

(d) The indemnification authorized by this Paragraph 10 shall not be deemed exclusive of and shall be in addition to any other right to which those indemnified may be entitled under any statute, rule of law, provisions of this Certificate of Formation, Bylaw, agreement, vote of members or disinterested Directors, or otherwise, both as to action in the person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

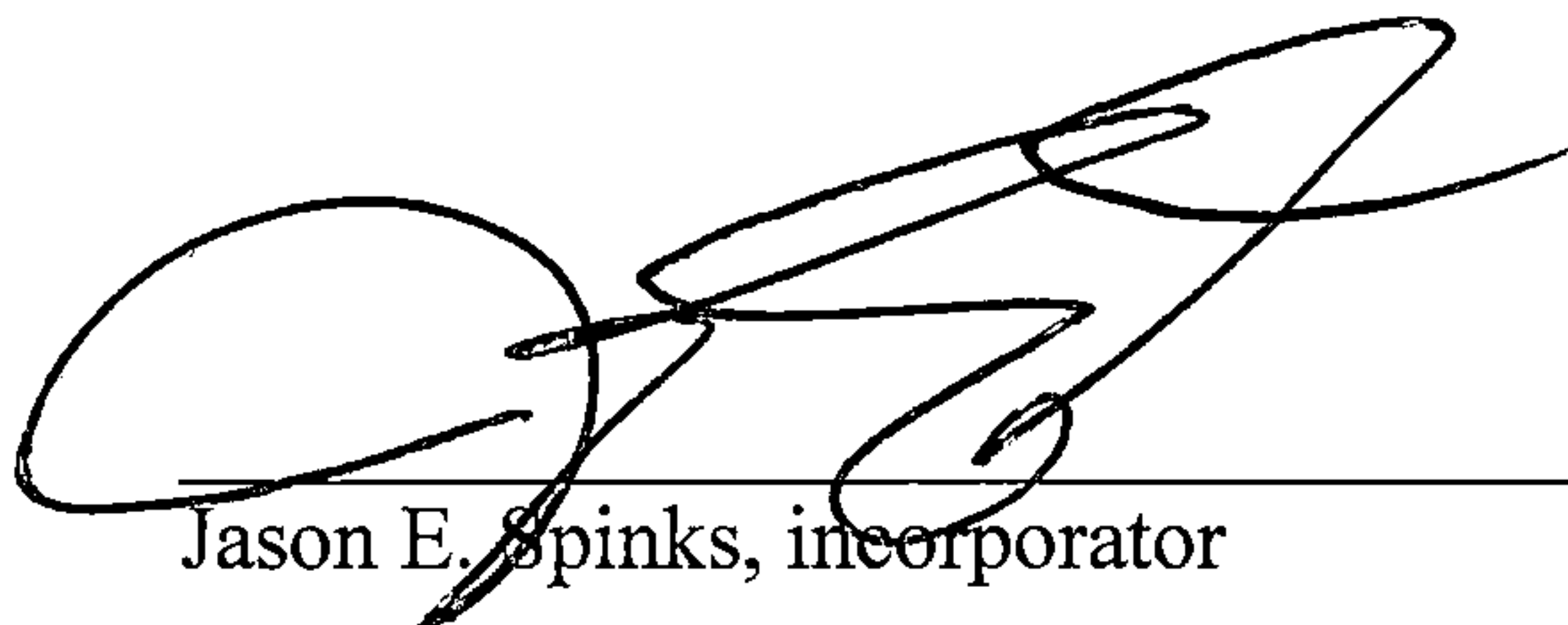
(e) The Association shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Association against any liability asserted against such person and incurred by such person in any such capacity or arising out of the person's status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Paragraph 10.



11. **AMENDMENT.** This Certificate of Formation may be amended at any time and from time to time as provided in the Alabama Nonprofit Corporation Law, subject to any limitations provided in the Declaration.

12. **INCORPORATION BY REFERENCE.** All of the terms, provisions, definitions, covenants and conditions set forth in the Declaration are hereby expressly incorporated herein by reference as if fully set forth herein. In the event of any conflict or ambiguity between the terms, provisions, definitions, covenants and conditions set forth herein in this Certificate of Formation and the Declaration, then the provisions of the Declaration shall at all times control.

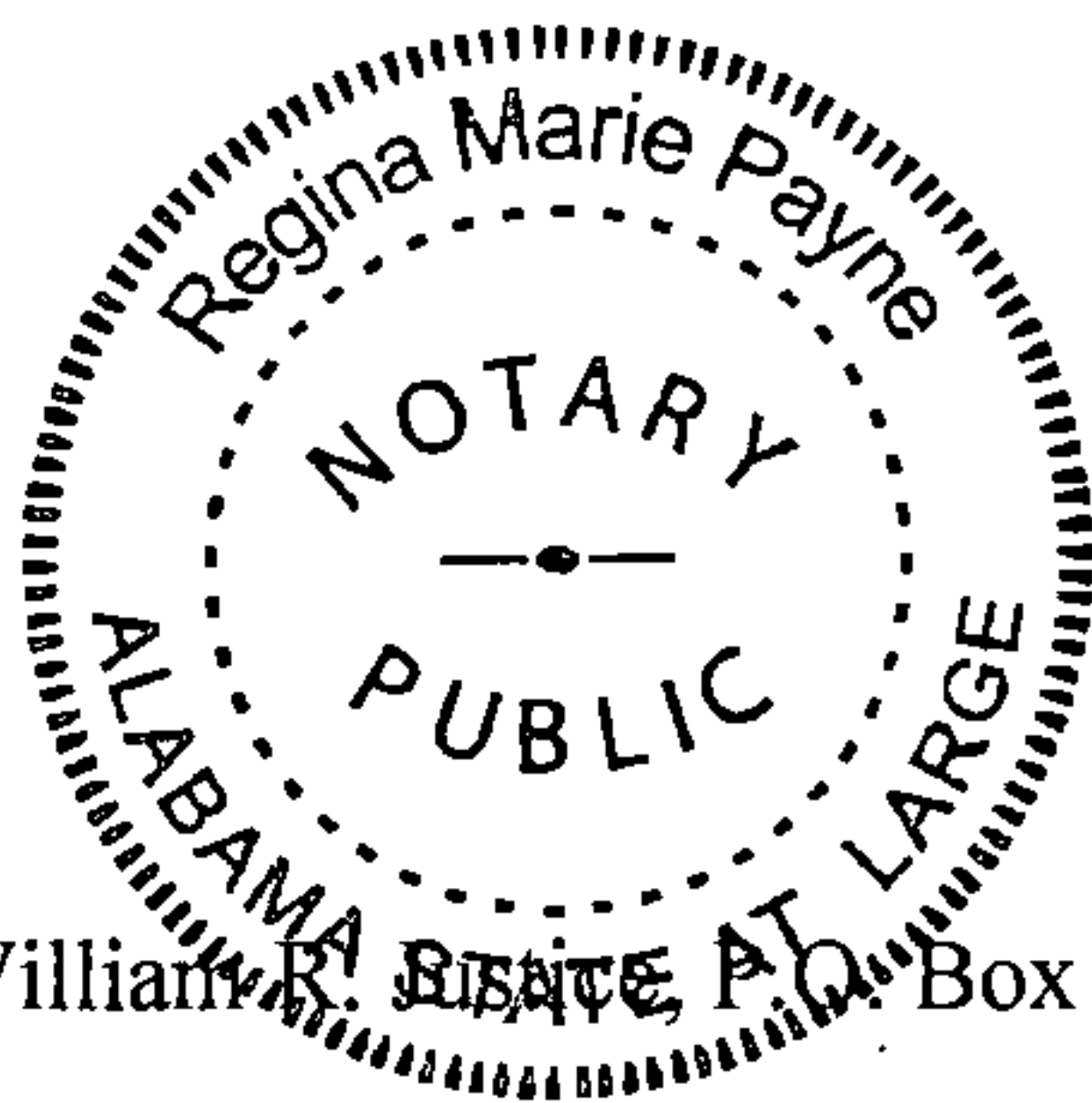
**IN WITNESS WHEREOF,** the undersigned Incorporators have hereunto subscribed their names to this Certificate of Formation as of this the 7 day of October, 2019.

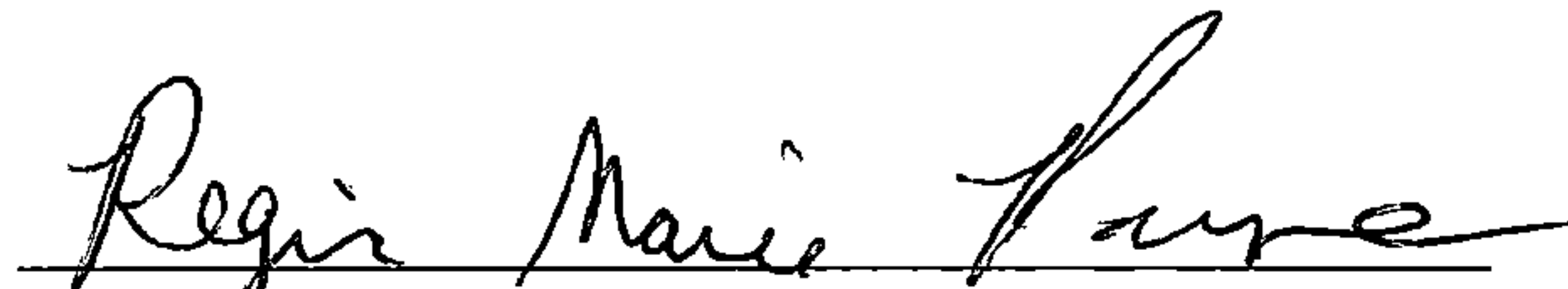
  
\_\_\_\_\_  
Jason E. Spinks, incorporator

STATE OF ALABAMA  
COUNTY OF Shelby

I, the undersigned, a notary public in and for said County in said State, hereby certify that Jason E. Spinks, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily.

Given under my hand and official seal, this the 7<sup>th</sup> day of October, 2019.



  
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Notary Public

My Commission Expires: 4-6-22



John H. Merrill  
Secretary of State

P.O. Box 5616  
Montgomery, AL 36103-5616

# STATE OF ALABAMA

**I, John H. Merrill, Secretary of 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:

**Mallard Landing Residential Association, Inc.**

This name reservation is for the exclusive use of William R Justice, PO Box 587,  
Columbiana, AL 35051 for a period of one year beginning June 04, 2019 and  
expiring June 04, 2020



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Shelby Cnty Judge of Probate, AL  
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**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.**

June 04, 2019

Date

RES842548

**John H. Merrill**

**Secretary of State**