

**AMENDED AND RESTATED CERTIFICATE OF FORMATION  
OF  
SHELBY SPRINGS RESIDENTIAL ASSOCIATION, INC.**

For the purpose of amending and restating the Corrected and Amended Certificate of Formation of the Shelby Springs Residential Association, Inc. (the "Association"), as amended pursuant to the Alabama Business and Nonprofit Entity Code (the "Act"), the undersigned does hereby sign, verify and adopt this Amended and Restated Certificate of Formation, and, upon the filing for record of this Restated Certificate of Formation in the Office of the Judge of Probate of Shelby County, Alabama, the Certificate shall be restated as set forth herein, to wit:

Pursuant to the authority granted to the Association in the Circuit Court of Shelby County, Alabama, Civil Division, Case #CV-2010-868 Russell McDonald, Larry Jenkins and William C. Miller versus Shelby Springs Residential Association, Inc., Order on Motion of Summary Judgment dated March 5<sup>th</sup>, 2013, the following original Articles of Incorporation of Shelby Springs Residential Association, Inc. dated May 28, 2010, as recorded in Instrument #20100715000225040, in the Probate Office of Shelby County, Alabama, are hereby amended as follows:

This Amended and Restated Certificate of Formation of the Organization correctly sets forth the provisions of the Certificate of Formation of the Organization as theretofore corrected as well as amendments that have been duly adopted as required by law, and supersedes the original Certificate of Formation of the Organization and all amendments thereto.

**ARTICLE I.  
NAME**

- 1.1 The name of the Association shall be "Shelby Springs Residential Association, Inc."

**ARTICLE II.  
ENTITY TYPE**

- 2.1 The Association shall be an Alabama nonprofit corporation.

**ARTICLE III.  
PURPOSES AND POWERS**

- 3.1 Subject to the limitations set out in this Article III, 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 subject to the Shelby Springs – Camp Winn Sector 2 General Covenants, Restrictions and Easements dated as of August 31, 1999 and as amended March 12, 2012 recorded in the Office of the Judge of Probate of Shelby County, Alabama.

(b) To own, operate, maintain, manage, repair and replace Common Areas.

(c) To the extent provided in the General Covenants, Restrictions and Easements, to control the specifications, architecture, design, appearance, siting and landscaping of all improvements to be constructed, place or permitted to remain on any Residential Lot, 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 General Covenants, Restrictions and Easements, this Certificate of Formation, the Bylaws of this Association and all amendments thereto, including, specifically, taking any action authorized or allowed to be taken by the Association in the General Covenants, this Certificate of Formation and the Bylaws.

(e) 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 General Covenants, Restrictions and Easements and to make, establish and enforce reasonable rules and regulations governing the administration, operation and management of the Property.

(g) To make, levy, collect and enforce Assessments, as defined in the General Covenants, Restrictions and Easement, and to use and expend such Assessments in the manner set forth in the General Covenants, Restrictions and Easements.

(h) To employ personnel and contract for services, material and labor, including contracting for the management of the Common Areas of the Property.

(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 officer, directors and Members or as may be otherwise required in the General Covenants, Restrictions and Easements.

(j) To enforce any of the provisions of the General Covenants, Restrictions and Easements by legal and equitable actions as may from time to time be necessary.

(k) 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, corporation, municipality, county, state, territory, government, governmental subdivision, or body politic.

(l) To operate without profit for the sole and exclusive benefit of its Members; provided, however, that the Association may, at any time and from time to time, authorize and grant to



persons who are not Members rights to use and enjoy the Common Areas on such terms and conditions as the Board of Directors of the Association may, in its sole and absolute discretion, determine.

(m) To carry on any other business in connection with the foregoing, to transact any or all lawful business for which corporations may be incorporated under the Alabama Nonprofit Corporation Act, as 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 General Covenants, Restrictions and Easements.

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.

#### **ARTICLE IV.**

##### **INITIAL REGISTERED OFFICE AND AGENT**

4.1 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 one in the same and as follows:

Gene Honeycutt  
134 Shelby Springs Farms  
Calera, AL 35040

#### **ARTICLE V.**

##### **NONSTOCK AND NONPROFIT STATUS**

5.1 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.

#### **ARTICLE VI.**

##### **MEMBERS AND VOTING RIGHTS**

6.1 **Members.** The members of the Association shall consist of all Owners. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot or Dwelling. As used in this Certificate of Formation, the term "Member" shall mean any Owner, as defined in the General Covenants, Restrictions and Easements and Bylaws.

6.2 **Voting Rights of Members.** The voting rights of the Members are set forth in the Bylaws. The voting rights of any Member who has violated the General Covenants, Restrictions and Easements or who is in default in the payment of Assessments (as defined in the General Covenants, Restrictions and Easements, and Bylaws) may be limited and suspended in

accordance with the provisions of the General Covenants, Restrictions and Easements, the Bylaws or any rules and regulations adopted by the Board of Directors of the Association.

**ARTICLE VII.**  
**DIRECTORS**

7.1 **Number of Directors.** The affairs of the Association shall be managed by a Board of Directors (each member of which is hereinafter sometimes referred to individually as a "Director" and collectively as the "Directors" or the "Board of Directors". The number of Directors constituting the Board of Directors shall be no less than three (3) and not more than (5). Directors must be Members (or the spouses of Members) who are in good standing at the time of their election and in accordance with the provisions of the Bylaws. The names and addresses of each person who is to serve as Directors of the Association until their successors are elected and qualified in accordance with the provisions of the Bylaws are as follows:

Gene Honeycutt  
134 Shelby Springs Farms  
Calera, AL 35040

Pam Waites  
365 Shelby Springs Farms  
Calera, AL 35040

Vance Higgins  
160 Stephana Circle  
Calera, AL 35040

Wanda Satterfield  
470 Shelby Springs Farms  
Calera, AL 35040

7.2 **Election and Removal of Directors.** Members of the Association in good standing as defined in the General Covenants, Restrictions and Easements and Bylaws shall be entitled to elect or remove any of the members of the Board in accordance with the terms and provisions of the Bylaws.

7.3 **Powers.** Except as may be otherwise provided to the contrary in the General Covenants, Restrictions and Easements, this Certificate of Formation or the Bylaws of the Association, all powers of the Association shall be exercised by or under authority of, and the business and affairs of the Association shall be managed under the direction of, the Board of Directors.

7.4 **Conflicts of Interest.** No contract or other transaction between the Association and one or more of its Directors or any other corporation, firm, association or entity in which one or more of its Directors are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest. Any Director of the Association or any corporation, firm, association or entity of which any Director of the Association is a director or officer is financially interested may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Association, provided that such relationship or interest in such contact or transaction shall be disclosed or known to the Board of Directors at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction and, if such fact shall be disclosed or known, any Director so related or interested may be counted in determining a quorum at such meeting and may vote on such matter or action with the same force and effect as if he were not so related or interested. Any



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Director of the Association may vote on any contract or other transaction between the Association and any affiliated corporation without regard to the fact that he is also a director of such affiliated corporation.

**ARTICLE VIII.**  
**INCORPORATOR**

8.1 The name and address of the incorporators is the Associations' Board of Directors as stated in Article VII. 7.1 Number of Directors.

**ARTICLE IX.**  
**DISTRIBUTION OF ASSETS UPON DISSOLUTION**

9.1 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 in the following manner:

(i) Unless otherwise agreed to the contrary in the plan of distribution, all remaining assets shall be distributed among the Members of the Association, as tenants in common, with each Member's share of the assets to be determined in accordance with their respective voting rights, as set forth in Paragraph 6 above.

9.2 Dissolution of the Association shall be accomplished as set forth in the Alabama Nonprofit Corporation Act.

**ARTICLE X.**  
**POWER OF PRESIDENT AND VICE PRESIDENTS TO EXECUTE DOCUMENTS**

10.1 The President and Vice President of the Neighborhood Association shall each have authority to execute all instruments, documents and contracts on behalf of the Association.

**ARTICLE XI.**  
**INDEMINIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS**

11.1 The Association shall indemnify, defend and hold harmless 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 such person is or was a director, officer, employee or agent of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) or is or was serving at the request of the Association as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such claim, action, suit or proceeding is such person acted in good faith and in a manner such 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 his 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 he 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 his conduct was unlawful.

11.2 The Association shall indemnify, defend and hold harmless any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that such person is or was a director, officer, employee or agent of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) or is or was serving at the request of the Association as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association; provided, however, that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for willful, deliberate or wanton misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

11.3 To the extent that a Director, officer, employee or agent of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraphs 11.1 and 11.2 above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith, notwithstanding that such person has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

11.4 Any indemnification under Paragraphs 11.1 and 11.2 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 of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) is proper in the circumstances because such person has met the applicable standard of conduct set forth in Paragraphs 11.1 and 11.2 above. Such determination shall be made (i) first, 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 (ii) second, if such a quorum is not obtainable, or, even if obtainable, if a quorum or disinterested Directors so directors, by independent legal counsel in a written opinion, or (iii) third, if (i) and (ii) above are not applicable (or are not utilized), then by a majority vote of the Members of the Association voting on such matter at an annual or special meeting of the Members or a ballot vote of the Members held, in either case, in accordance with the terms, provisions and requirements of the Bylaws.

11.5 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 11.4 above upon receipt of an undertaking by or on behalf of the Director, officer, employee or agent of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) to repay such amount if and to the extent that it shall be ultimately determined that such person is not entitled to be indemnified by the Association as authorized in Article XI.

11.6 The indemnification authorized by Article XI 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 these Articles of Incorporation, the Bylaws or any other agreement, vote of Members or disinterested Directors, or otherwise, both as to action in such 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 of the Association (including any person designated by the Board of Directors to serve as a committee member on any committee established by the Board of Directors) and shall inure to the benefit of the heirs, executors and administrators of such a person.

## **ARTICLE XII.**

### **AMENDMENT**

12.1 This Certificate of Formation may be amended at any time and from time to time by the affirmative vote of both (a) a majority of the members of the Board of Directors and (b) a majority of the Members of the Association voting, either in person or by proxy either (i) at a duly convened meeting of the Members held pursuant to the terms and provisions of the Bylaws or (ii) in a ballot vote held pursuant to the provisions of Section 2.09 of the Bylaws.

## **ARTICLE XIII.**

### **INCORPORATION BY REFERENCE**

13.1 All of the terms, provisions, definitions, covenants and conditions set forth in the General Covenants, Restrictions and Easements and Bylaws 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 in this Certificate of Formation and the General Covenants, Restrictions and Easements and Bylaws, then the provisions of the General Covenants, Restrictions and Easements and Bylaws shall at all times control.

IN WITNESS WHEREOF, the undersigned Incorporate has hereunto subscribed his name to this Certificate of Formation as of the 18<sup>th</sup> day of June, 2016.

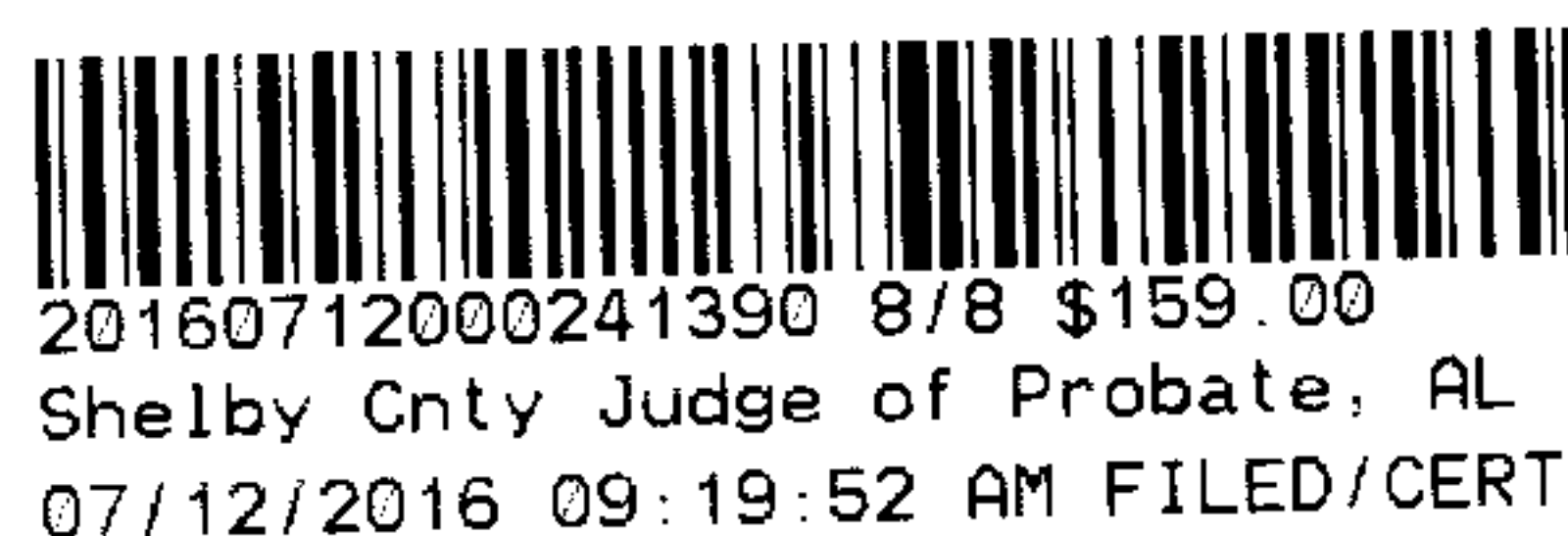
G-H  
Member, Board of Directors

Wanda Satterfield  
Member, Board of Directors

Vance Higgins  
Member, Board of Directors

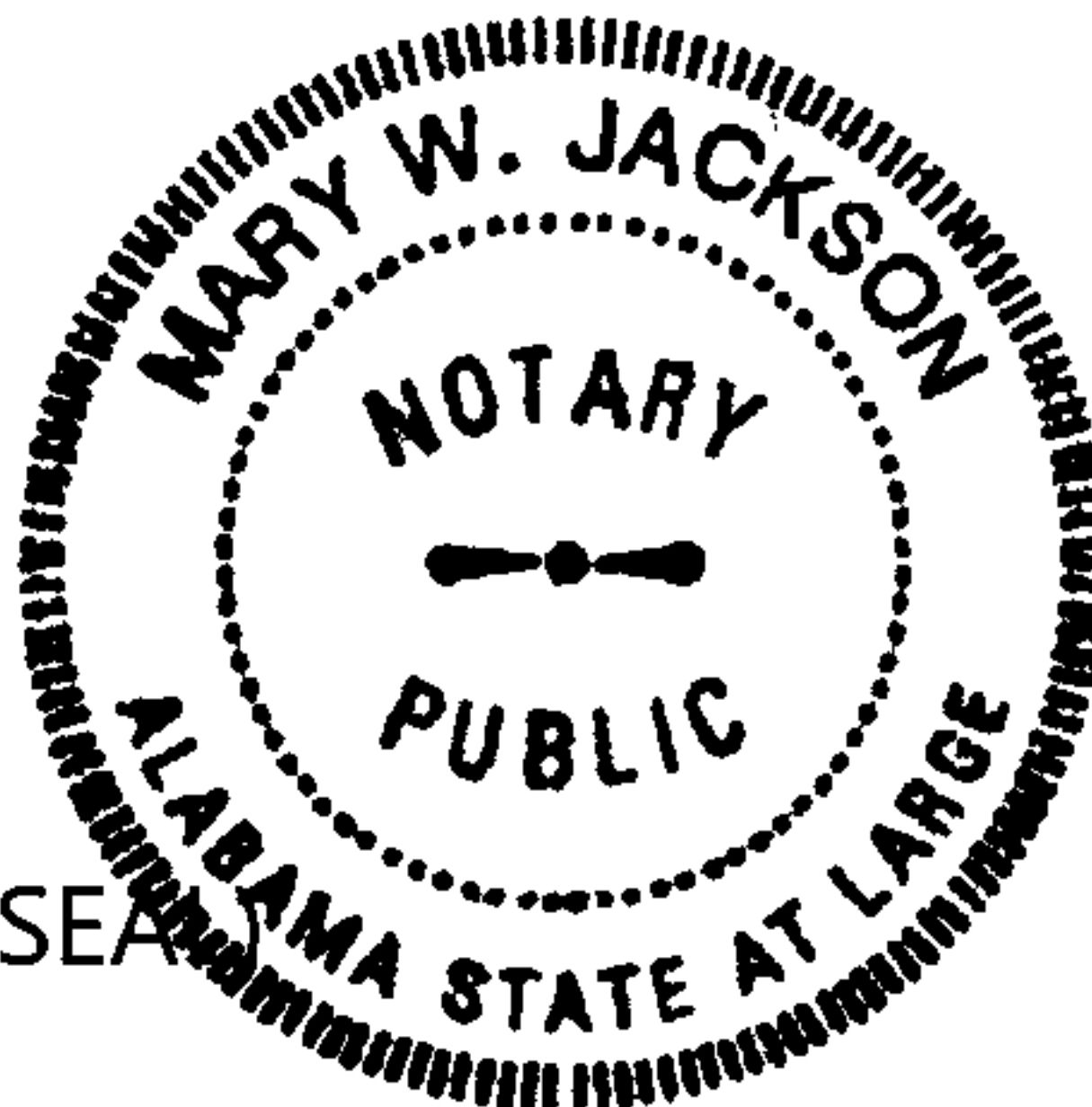
Pam Waites  
Member, Board of Directors

STATE OF ALABAMA  
COUNTY OF SHELBY



I, the undersigned, a Notary Public in and for said county in said state, hereby certify that Gene Honeycutt, Wanda Satterfield, Vance Higgins and Pam Waites, 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, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 18<sup>th</sup> day of June, 2016.



Mary W. Jackson  
Notary Public

(NOTARIAL SEAL)

My commission expires: 8-22-2017