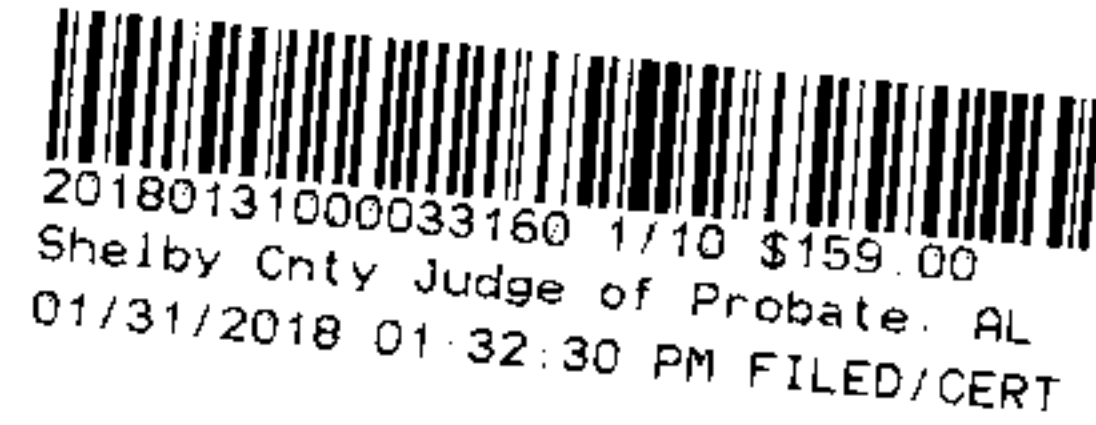


STATE OF ALABAMA)

SHELBY COUNTY)



**CERTIFICATE OF FORMATION
OF
ADAMS MILL OWNERS ASSOCIATION, INC.**

A HOMEOWNERS' ASSOCIATION
AND NONPROFIT CORPORATION
UNDER THE LAWS OF THE STATE OF ALABAMA

BE IT KNOWN that the undersigned, for the purpose of forming a nonprofit corporation pursuant to the provisions of the Alabama Nonprofit Corporation Law as set forth in Chapters 1 and 3 of the Alabama Business and Nonprofit Entity Code, *Ala. Code* (1975) §§ 10A-1-1.01 *et seq.*, as amended, (the "Corporation Law") and the Alabama Homeowners' Association Act, *Ala. Code* (1975) §§ 35-20-1 *et seq.* (the "HOA Act"), does hereby adopt the following Certificate of Formation for such nonprofit corporation (the "Certificate of Formation") and certifies as follows:

1. **NAME.** The name of the corporation shall be "**Adams Mill Owners Association, Inc.**" (the "Association").

2. **DURATION.** The period of duration of the Association is perpetual unless terminated according to the terms of this Certificate.

3. **PURPOSES AND POWERS.** The purposes for which the Association is organized and the powers of the Association are as follows:

(a) To provide for the efficient preservation of the appearance, value and amenities of the Adams Mill residential subdivision as shown on the Plat of Adams Mill Subdivision, Second Addition, recorded in Map Book 49, Page 4, in the Office of the Judge of Probate of Shelby County, Alabama (the "Development"). The Development is subject to the January 30, 2018 Adams Mill Declaration of Covenants, Conditions and Restrictions (the "Declaration") executed by TBR, Inc. as Developer, and recorded or to be recorded contemporaneously herewith in the Office of the Judge of Probate of Shelby County, Alabama, as the same may be amended from time to time. *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 Areas of the Development.

(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, and in this Certificate of Formation and Bylaws of this Association and all amendments thereto.

(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 Declaration and to make, establish and enforce reasonable rules and regulations governing the administration, operation and management of the Development.

(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 employ personnel and contract for services, material and labor, including contracting for the management of the Common Areas and all other portions of the Development.

(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 or as may be otherwise required in the Declaration.

(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 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 purchase, lease, or otherwise acquire, directly or indirectly, Common Areas and Additional Property of the Development for the benefit of the Owners, and to operate, maintain, manage, repair and replace Common Areas and Additional Property and other improvements in or benefiting the Development for which the obligation to maintain has been delegated and accepted.

(m) To grant and obtain easements, leases, licenses and concessions through, over, across, under and upon any of the Common Areas.

(n) To operate without profit for the sole and exclusive benefit of its members.

(o) To carry on any other business in connection with the foregoing, to transact any or all lawful business for which nonprofit corporations and homeowners' associations may be incorporated under the Corporation Law and HOA Act, as respectively amended, and to have and exercise all powers necessary or convenient to effect the purpose of the Association in accordance with and subject to the terms and provisions of the Declaration.

(p) To have the powers granted to the Association in Chapter 3 of the Corporation Law (the "Alabama Nonprofit Corporation Law").

(q) To have the powers granted to the Association under the HOA Act.

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:

William L. Thornton, III
5300 Cahaba River Road, Suite 200
Birmingham, Alabama 35243

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 any member 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. **MEMBERS.** There shall be only one (1) class of membership. The members of the Association shall consist of all Lot Owners. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Lot. As used in this Certificate of Formation, the term "member" shall mean the Owner of any Lot, as defined in the Declaration. Each member shall be entitled to one (1) vote for each Lot owned and the voting

rights of members are set forth in the Bylaws. Notwithstanding anything provided herein or in the Bylaws to the contrary, until Turnover,

(a) Developer shall have the sole and exclusive right to (i) elect the Board of Directors of the Association, (ii) appoint the officers of the Association and the members of the ARC, as defined in the Declaration, (iii) remove and replace any members of the Board of Directors of the Association, the officers of the Association and the members of the ARC, (iv) amend this Certificate of Formation and the Bylaws, (v) amend the Declaration (subject to the limitations set forth in Section 10.2 of the Declaration), (vi) take all other action on behalf of the Association and vote on all other matters required to be voted on or approved by the members of the Association (except to the extent all members of the Association are entitled to vote on the matters described in Paragraph 6(b) below; and

(b) the voting rights of the members of the Association shall be limited to (i) the approval of any Special Assessments as provided in Sections 8.4 and 8.5 of the Declaration, and (ii) voting on amendments to the Declaration as provided in Section 10.3 of the Declaration. Until Turnover, the members shall have no further voting rights or privileges in the Association. The voting rights of any member who has violated the Declaration or who is in default in the payment of Assessments (as defined in the Declaration) may be limited and suspended in accordance with the provisions of the Declaration or any rules and regulations adopted by the Association.

7. DIRECTORS.

(a) **Number of Directors.** The affairs of the Association shall be managed by a Board of Directors. The number of Directors constituting the initial Board of Directors shall be three (3). Thereafter, the number of Directors shall be fixed in the manner provided in the Bylaws and may thereafter be increased or decreased from time to time by amendment to or in the manner provided in the Bylaws; provided, however, that (i) the number of Directors shall in no event consist of less than three (3) Directors, (ii) no decrease in the number of Directors shall have the effect of shortening the term of any incumbent Director; (iii) as provided in Sections 4.2 and 12.1 of the Declaration, Developer shall have the right to elect all members of the Board of Directors until Turnover and (iv) after Turnover, the members of the Association shall elect a new Board of Directors, as provided in Section 12.1 of the Declaration. Directors need not be Owners or residents of the State of Alabama. Turnover has the meaning set forth in the Declaration. The name and address of each person who is to serve as an initial Director of the Association until their successors are elected and qualified or until such Directors are removed as provided in Paragraph 7(b) of this Certificate of Formation are as follows:

William L. Thornton, III
5300 Cahaba River Road, Suite 200
Birmingham, Alabama 35243

Lauren E. Thornton
5300 Cahaba River Road, Suite 200
Birmingham, Alabama 35243

Eric Shula
2188 Parkway Lake Drive
Birmingham, Alabama 35244

Not later than one hundred twenty (120) days after Turnover, (a) Developer shall cause the Board to call a special meeting of the members in accordance with Section 35-20-9 of the HOA Act for the purposes of (i) transitioning control of the Association to the members, and (ii) electing new Directors to the Board; and (b) all Directors must be members, or representatives of entities that are members, the number of directors shall be as set forth in the Bylaws and the members shall have the right to elect the Board of Directors as provided in the Bylaws. A candidate for a position as Director is not required to obtain the written consent of any member in order to run for a Director position. Notice of the meeting may be delivered according to the provisions set forth in the Bylaws.

(b) **Removal.** Until Turnover, Developer shall have the exclusive right at any time and from time to time to remove any Director, either with or without cause, and may appoint a successor to such removed Director or otherwise fill any vacancies on the Board, in each case without any consent or approval of any of the members. After Turnover, the members of the Association shall have the right at any time and from time to time, in accordance with the Declaration and the Bylaws, to remove any Director, either with or without cause, and may appoint a successor to such removed Director. Any vacancies which may thereafter arise on the Board shall be filled as provided in the Bylaws.

(c) **Powers.** Except as may be otherwise provided to the contrary in the Declaration, this Certificate of Formation or the Bylaws of the Association, all powers of the Association shall be exercised by or under the authority of, and the business and affairs of the Association shall be managed under the direction of, the Board of Directors.

(d) **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 or 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 contract or transaction shall be disclosed or made known to the Board of Directors at a 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 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.

8. **INCORPORATOR.** The name and address of the incorporator is as follows:

William L. Thornton, III
5300 Cahaba River Road, Suite 200
Birmingham, Alabama 35243

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 in the following manner:

(i) Real property contributed to the Association without the receipt of other than nominal consideration by Developer shall be returned to Developer, unless it refuses to accept the conveyance (in whole or in part); and

(ii) 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 its voting rights.

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

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

(a) The Association shall indemnify any person who was or is 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 he is or was a director, officer, employee, member, manager, or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, employee, member, manager or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgment, fines and amounts paid in settlement, actually and reasonably incurred by him in connection with such claim, action, suit or proceeding, if he acted in good faith and in a manner 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 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.

(b) The Association shall 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 or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee, member, manager or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, employee, member, manager or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he 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 or suit was brought shall determine upon application that, despite that 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.

(c) To the extent that a director, officer, employee, member, manager or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Paragraphs 10(a) and (b) above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

(d) Any indemnification under Paragraphs 10(a) and (b) 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, member, manager or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Paragraphs 10(a) or (b) 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.

(e) 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(d) above upon receipt of an undertaking by or on behalf of the director, officer, employee, member, manager or agent to repay such amount if and to the extent that it shall be ultimately determined that he is not entitled to be indemnified by the Association as authorized in this Paragraph 10.

(f) 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, Bylaws, agreement, vote of members or disinterested directors, or otherwise, both as to action in his 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, member, manager or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) The Association shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, member, manager or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, employee, member, manager or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his 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. **POWER OF PRESIDENT AND VICE PRESIDENTS TO EXECUTE DOCUMENTS.** The President and each Vice President of the Association shall each have authority to execute all instruments, documents and contracts on behalf of the Association.

12. **AMENDMENT.** Subject to any restrictions set forth in the Declaration, until Turnover and without the consent or approval of any of the members of the Association, this Certificate of Formation may be amended at any time and from time to time by Developer or, provided that the approval of the Developer is first obtained, by the vote of the Board of Directors of the Association. After Turnover, then this Certificate of Formation may be amended, subject to the terms and provisions of the Declaration and the Bylaws, by the affirmative vote of at least two-thirds (2/3) of the members of the Association who are entitled to vote thereon. All amendments to this Certificate become effective only upon being placed of record in the Office of the Judge of Probate of Shelby County, Alabama.

13. **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 Incorporator has hereunto subscribed his name to this Certificate of Formation as of the 30th day of January, 2018.




William L. Thornton, III

STATE OF ALABAMA)
)
COUNTY OF JEFFERSON)

I, the undersigned, a notary public in and for said County in said State, hereby certify that William L. Thornton, III, 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 on the date the same bears date.

Given under my hand and official seal, this the 30th day of January, 2018.



Notary Public

[SEAL]
My Commission Expires:
April 27, 2019



This instrument prepared by:
Mary Thornton Taylor
Taylor Partners, LLC
P. O. Box 489
Orange Beach, Alabama 36561

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:

Adams Mill Owners Association, Inc.

This name reservation is for the exclusive use of Taylor Partners, LLC, P. O. Box
489, Orange Beach, AL 36561 for a period of one year beginning January 09, 2018
and expiring January 09, 2019

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Shelby Cnty Judge of Probate, AL
01/31/2018 01:32:30 PM FILED/CERT



RES782911

**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.**

January 09, 2018

Date

J. H. Merrill

John H. Merrill

Secretary of State