| THIS INSTRUMENT WAS PREPARED BY:<br>Seth N. Cline, Esq.<br>**COLLINS LEGAL, PLC**<br>414 Union Street, Suite 1110<br>Nashville, TN 37219<br>615-736-9596<br>seth@collins.legal | Karen Johnson Davidson County<br>Batch# 841665 DEEDMAST<br>04/19/2022 11:30:30 AM 26 pgs<br>Fees: $132.00 Taxes: $0.00<br>20220419-0044893 |
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| ADDRESS NEW OWNERS AS FOLLOWS: | SEND TAX BILLS TO: | MAP & PARCEL NUMBERS: |
|---|---|---|
| The Townhomes at 211 and 213 Marcia Avenue Homeowners' Association, Inc.<br>10755 Scripps Poway Pkwy, #609<br>San Diego, California 92131 | The Townhomes at 211 and 213 Marcia Avenue Homeowners' Association, Inc.<br>10755 Scripps Poway Pkwy, #609<br>San Diego, California 92131 | 10301016000 |

**DECLARATION ESTABLISHING A HORIZONTAL PROPERTY REGIME FOR THE TOWNHOMES AT 211 AND 213 MARCIA AVENUE**

THIS DECLARATION is made this the 29th day of March, 2022, by TN Rooster, LP, a Tennessee Limited Partnership, duly organized and existing under the laws of the State of Tennessee, (hereinafter called the "Developer" or "Declarant"), for itself, its successors and assigns wherein the Developer makes the following declarations and submissions:

1. Purpose: The purpose of this Declaration (hereinafter also referred to as the Master Deed) is to submit the land described in Paragraph 3 and the improvements thereon a Horizontal Property Regime established under Chapter 27 of Title 66 of the Tennessee Code Annotated; and expressly §§ 66-27-101, et seq.
2. Name and Address: The name by which this Horizontal Property Regime is to be identified is The Townhomes at 211 and 213 Marcia Avenue, and is located at 211 and 213 Marcia Avenue, Nashville, Davidson County, Tennessee, 37209.
3. Submission of the Property: The Developer hereby submit the following described property (hereinafter the "Property") together with the buildings and improvements thereto, owned by the Developers in fee simple absolute, to the provisions of Chapter 27 of Title 66, Tennessee Code Annotated, thereby establishing a planned unit development pursuant to said Chapter. The Property is described on the attached "Exhibit A" which is incorporated herein by this reference.

4. Land Included in Property: The land included in the Property is also described in the Site Plan of "211 and 213 Marcia Avenue", attached as "Exhibit B," which is made a part hereof by this reference. Said land will sometimes be referred to as the "Property" or the "Planned Unit Development" or the "Horizontal Property Regime." The fee simple absolute title to the units are shown on said plan, and the improvements located thereon shall be conveyed to the owner of each such unit (the "Unit," or collectively the "Units") for the exclusive use of such owner. The land immediately underneath each Unit may also be referred to herein as a "Lot" on or collectively the "Lots" and is a private element owned by the Unit Owner. Fee simple absolute title in any common elements (hereinafter referred to as "Common Elements" or "Common Areas"), shall be vested in the homeowner's association hereby established and which shall operate as a Townhouse corporation under the name of "The Townhomes at 211 and 213 Marcia Avenue Homeowners' Association, Inc." Certain areas shall be referred to as "Limited Common Areas" or "Limited Common Elements" on the collective plans recorded as Exhibit B to this document. The Limited Common Elements benefit the Owner or Owners of a particular unit Lot or Unit solely. Those Limited Common Areas benefitting each designated unit, are designated on Exhibit B, and a limited common element will be maintained by such unit owner. The street address for the Units will be 211 and 213 Marcia Avenue, Nashville, Davidson County, Tennessee 37209 as is shown on Exhibit A.

5. Membership and Voting Rights in the Association: Every person who is a record owner of a fee or undivided fee interest in any Lot and Unit situated within The Townhomes at 211 and 213 Marcia Avenue, shall automatically be a member of the Association, provided, however that any such person who holds such interest merely as a security for the performance of an obligation shall not be a member, except as hereinafter set forth and as set forth in the By-laws of the Association, which are attached hereto as "Exhibit C" and which are incorporated herein by reference.

6. The Building and Ground Area: The development consists of two (2) dwelling Units located on a parcel of real estate commonly known as 211 and 213 Marcia Avenue, Nashville, Davidson County, Tennessee, 37209. The site plan and/or foundation for the aforesaid units is reflected on the Site Plan, attached as Exhibit B. The Common Elements and Limited Common Elements are all shown on the Site

Plan. Anything not labeled as a Unit or as a Limited Common Element shall be a Common Area or Common Element. For purposes of this instrument, the terms, "Common Areas" and "Common Element" will be used interchangeably.

7. Units: The words unit, dwelling, dwelling unit, and apartment have the same meaning throughout this Declaration, and the By-laws attached hereto and are used interchangeably. After recording of the Master Deed, street addresses different from the Unit designations may be assigned to these Units. The exterior of a Unit shall be maintained by the owner of the Unit, except as is provided herein.
8. Use of Units: Each of the Units shall be used as single-family residences, allowing all now existing or future uses consistent with the then applicable zoning. Current zoning of the property is R6 as found in the District Land Use Tables of the Metropolitan Nashville and Davidson County Code of Laws, MCL §17.08.030. There is a total of three (2) units in the Horizontal Property Regime.
9. Encroachments: If any portion of the Common Elements now encroaches upon any dwelling or if any dwelling now encroaches upon any other dwelling or upon any portion of the Common Elements, as a result of the construction of a building or any building, or if any such encroachment shall occur hereafter as a result of settling or shifting, a valid easement for the encroachment shall occur hereafter as a result of settling or shifting and a valid easement for the encroachment and the maintenance of the same so long as such building stands, shall exist. In the event such building, a dwelling, and adjoining dwelling or any adjoining Common Element, shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or an eminent domain proceeding and then rebuilt, encroachments of parts of the Common Elements upon any dwelling or encroachments of any dwelling upon any other dwelling or encroachments upon any portion of the Common Elements, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as any such building shall stand.
10. Developer(s) and Development Rights: During the Development Period defined herein, the Developer(s) and/or any such builder or their agents, employees, contractors, etc. shall be entitled to the unequivocal, unilateral right to:

a. Access, ingress, egress from the buildings and property as may be required for purposes of development and sale of the Unit(s);

b. Establish, relocate, expand, modify, reduce, enlarge, or extend the existing driveways, parking areas, and yard;

c. Establish, construct, relocate, expand, modify, reduce, enlarge, or extend sewers, utility lines, or service connections in order to serve any residence on the Property;

d. Reassign Common Elements as Limited Common Elements to serve a single Unit or one or more adjoining Units as an inseparable appurtenance thereto;

e. Add easements or any real estate to the Property;

f. Create additional Units, Common Elements, Limited Common Elements;

g. Relocate, expand, modify, reduce, enlarge, or extend the proposed Site Plan (Exhibit B to this Agreement) to accurately reflect the construction of the Unit(s) on the Property;

h. Create separate and/or additional Supplemental Declarations outlining said Developer Rights pursuant to this Agreement; and

i. Appoint and remove all officers and directors of the Board until the Expiration of the Development Period as outlined by Paragraph 11 of this Agreement.

11. Development Period: The Development Period shall begin on the date the property is transferred to Developer and/or the date of the recording of this Declaration, whichever occurs first, and shall end upon the completion and transfer of ownership of the Unit(s) and/or Proposed Unit(s) from Developer to the bona fide purchaser.

12. Dwelling Units Subject to Declaration and Master Deed: All present and future co-owners and tenants of Units shall be subject to and shall comply with provisions of this Declaration which is also referred to as the Master Deed and the By-Laws attached hereto. The acceptance of a deed of conveyance, devise, inheritance, or the entering into a lease of a dwelling or entering into occupancy of a dwelling shall constitute an agreement that the provisions of the Declaration and such By-Law provisions, covenants, and restrictions are accepted and ratified by each co-owner and tenants, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any persons having at any

time any interest or estate in such dwelling, as though such provisions were recited and stipulated in full in each and every deed or lease thereof.

13. Dwelling Units Subject to By-Laws and Rules and Regulations: All present and futures co-owners, tenants and occupants of a dwelling unit shall be subject to, and shall comply with, the provisions of the By-Laws and the Rules and Regulations attached hereto and recorded herewith, under T.C.A §§ 66-27-101, et seq., as they may be amended from time to time. The acceptance of a deed of conveyance, devise or of a lease to a dwelling unit, or the entering into occupancy of any dwelling unit shall constitute an agreement that the provisions of the said By-Laws and the Restrictions, as they may be amended from time to time, are accepted and ratified by such co-owner, tenant and occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such apartment and lot, as though such provisions were received and stipulated at length in each and every deed, conveyance, or lease, thereof. Insurance covering the Units and the Unit Owners shall be obtained by the Unit Owner(s) as provided in the By-Laws.
14. Amendment: This Declaration may be amended by a deed or amendment joined in by the co-owners representing all of the total then existing dwelling units in the Horizontal Property Regime which deed shall be recorded in the Register's Office of Davidson County, Tennessee.
15. Waiver: No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce it, regardless of the number of violations or breaches which may occur.
16. Captions: The captions herein are inserted only as a matter of convenience and for reference and neither define, limit or describe the scope of the Declaration not the intent of any provision hereof.
17. Gender: Feminine or neuter pronouns shall be substituted for those of masculine form, and the plural shall be substituted for the singular, wherever the context shall require. No specific words, phrases or clauses herein used shall be taken or construed to control, limit or cut down the scope or meaning of any general words, phrases or clauses used in connection therewith.

IN WITNESS WHEREOF, the Developers have caused this Declaration to be executed in Nashville, Davidson County, Tennessee on this the 29th day of March, 2022.

DEVELOPER: TN ROOSTER, LP

BY: XENIA B. HOM
ITS: Authorized Agent

STATE OF TENNESSEE )
COUNTY OF DAVIDSON )

Before me, the undersigned, a Notary Public within and for the State and County aforesaid, personally appeared Xenia Hom with who I am personally acquainted, and who upon oath acknowledged himself to be the Authorized Agent for TN Rooster, LP, and as such, acknowledged that he is authorized to execute the foregoing instrument on behalf of TN Rooster, LP, the within named Developer, a Limited Partnership entity, and that he in such capacity as Authorized Agent executed the foregoing instrument for the purposes contained therein, by singing his name on behalf of the Developer as Authorized Agent.

WITNESS my hand and seal this 4th day of April, 2022.

SHAHRZAD ABBASIAN
COMM. # 2281034
NOTARY PUBLIC - CALIFORNIA
SAN DIEGO COUNTY
My Commission Expires
March 30, 2023

NOTARY PUBLIC

NOTARY COMMISSION EXPIRATION

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego )

On April 4th, 2022 before me, Shahrzad Abbasian / Notary Public
(insert name and title of the officer)

personally appeared Xenia Ham,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SHAHRZAD ABBASIAN
COMM. # 2281034
NOTARY PUBLIC • CALIFORNIA
SAN DIEGO COUNTY
My Commission Expires
March 30, 2023
BSC2 BSC2

Signature _____ (Seal)

## EXHIBIT A

BEING Lot No. 1 according to a plat of survey prepared by Jason Garrett of Clint Elliott Survey as of record in Instrument No. 20210908-0120325 of the Register's Office for Davidson County, Tennessee, dated March 17, 2021 and recorded September 3, 2021.

Being a portion of the same property conveyed to TN Rooster, LP, by Quitclaim Deed from Luke Ryan and Xenia Hom, husband and wife, of record in Instrument Number 20220128-0010290, in the Register's Office of Davidson County, Tennessee, dated January 18, 2022, and recorded on January 28, 2022.

This improved property known as 211 Marcia Avenue, Nashville, Davidson County, Tennessee, 37209.

## EXHIBIT B

Site Plan of 211 and 213 Marcia Avenue.

| DESCRIPTION OF REVISION | DATE | 211 MARCIA (LOT 1)<br>211 MARCIA AVENUE<br>NASHVILLE, TN 37209 | PERMITTING SET |
|---|---|---|---|

Sheet Title: LOT 1 HRR EXHIBIT

benesch

Date: 3/23/22
Scale: 1"=20'
Drawn By: ZHR
Submitted By: FPS
Sheet Number: EX.1

PARCEL ID:
105010160000

0 20 40 60
1"=20'

N

PRIVATE ELEMENT(S) (UNITS)

UNIT A LIMITED COMMON ELEMENT

UNIT B LIMITED COMMON ELEMENT

## EXHIBIT C

## BY-LAWS OF
## THE TOWNHOMES AT 211 AND 213 MARCIA AVENUE HOMEOWNERS' ASSOCIATION, INC.

### ARTICLE I. DEFINITIONS

The words defined in the DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE TOWNHOMES AT 211 AND 213 MARCIA AVENUE HOMEOWNERS' ASSOCIATION, INC. (the "Declaration") of record In the Register's Office for Davidson County, Tennessee, shall have the same meaning in these corporate By-Laws.

### ARTICLE II. NAME AND OFFICES

1. Name: The name of the corporation shall be THE TOWNHOMES AT 211 AND 213 MARCIA AVENUE HOMEOWNERS' ASSOCIATION, INC.

2. Registered Office: The registered office of the corporation is located at THE TOWNHOMES AT 211 AND 213 MARCIA AVENUE HOMEOWNERS' ASSOCIATION, INC. c/o MISSION DEVELOPMENT, LLC, 10755 SCRIPPS POWAY PKWY, #609, SAN DIEGO, CALIFORNIA 92131, as may be relocated by the Board of Directors from time to time. The name of the registered agent of the corporation is Paracorp Incorporated, 992 Davidson Drive, Site B, Nashville, Tennessee 37206-1051.

3. Other Offices: The corporation may also have offices at such other places both within and outside the State of Tennessee as the Board of Directors may from time to time determine, or the business of the corporation may require.

### ARTICLE III. MEMBERS AND MEMBERSHIP PRIVILEGES

1. Membership: Each Owner shall be a Member of the corporation, and no other person or entity shall automatically be entitled to membership. No Member shall be required to pay any consideration whatsoever solely for membership in the corporation.

2. Succession: The membership of each Owner shall terminate when he ceases to be a Lot Owner, and upon sale, transfer or other disposition of his ownership interest in the Development Property, his membership in the Association shall automatically be transferred to the new Owner succeeding to such ownership interest.

3. Short Term Rental Permits: Nothing in these By-Laws, neither explicitly nor implicitly, shall prevent an Owner from utilizing and/ or operating his property as a short-term rental unit. Owners have the unequivocal right, without reservation, to utilize and or operate his property as a short-term rental property as permitted and in compliance with any state or local laws and ordinances.

### ARTICLE IV. MEETINGS OF MEMBERS

1. Place and Time of Meetings: Meetings of the Members of the corporation may be held at a place to be determined by the Board within Davidson County, Tennessee, and at such time, as specified in the written notice of such meeting which shall be delivered by the Board to all Owners at least TEN (10) days prior to the date of such meeting.

2. Annual Meetings: Development Period: During the Development Period, meetings of the Association shall only take place upon the call of the Developer. At any such meeting, the Developer may, but shall not be required to, submit to a Vote of the Lot Owners any matter that properly may come before a meeting

of the Association. During the Development Period, the Developer shall determine in its sole discretion all matters that may properly come before the Board or the Association.

3. Annual Meetings: Post Development Period: The first regular annual meeting of the Owners (the "First Annual Meeting") shall be held after the expiration or termination of the Development Period. Subsequent to the First Annual Meeting, there shall be a regular annual meeting of Lot Owners held each year within THIRTY (30) days of the anniversary of the First Annual Meeting. All such meetings of the Owners shall be held at such place in Davidson County, Tennessee and at such time, as specified in the written notice of such meeting which shall be delivered by the Board to all Owners at least TEN (10) days prior to the date of such meeting.

4. Special Meeting: Special meetings of the Members, for any purpose of purposes, may be called by the President, a majority of the Board of Directors or by Members having not less than THIRTY-FIVE PERCENT (35%) of the total number of votes entitled to be case at such meeting. Business transacted at all special meetings shall be confined to the business stated in the notice of such meeting.

5. Notice: Written or printed notice, by or at the direction of the president, the secretary or the officer or Person authorized to call the meeting, shall be sent by U.S. Mail, facsimile, or e-mail, not less than TEN (10) nor more than SIXTY (60) days before the date of the meeting to each Member of the corporation entitled to vote at such meeting at the addresses or other contact information given to the Board by the Owner(s) for such purpose or hand delivery to an Owner's Lot if no separate address or other contact information for such purpose has been given to the Board. Said notice shall state the place, day and hour of the meeting and in the case of a special meeting, the purpose or purposes for which the meeting is called.

6. Quorum: The presence in person or by proxy of more than THIRTY-FIVE PERCENT (35%) of the Votes entitled to be cast at a meeting of the Members shall constitute a quorum at all meetings of the Members for the transaction of business. If, however, the Members entitled to Vote in person or represented by proxy present at a meeting fail to satisfy a quorum, the Members present shall have the power to adjourn the meeting, without notice, until a quorum shall be present or represented. Further, if a quorum is not present, a subsequent meeting may be called; and the required quorum shall be reduced by half at such meeting. Such procedure may be repeated until a quorum is established, although in no event may the required quorum be less than TEN PERCENT (10%) of the Votes entitled to be cast at a meeting of the Members.

7. Majority Vote; Withdrawal of Quorum: When a quorum is present at any meeting, the Vote of the holders of more than FIFTY PERCENT (50%) of the total number of Member Votes present, in person or by proxy, and entitled to be cast shall decide any question brought before such meeting, unless the question is one upon which by express provision of the Declaration, the Charter of the corporation or these By-Laws; a different Vote is required, in which case such express provision shall govern and control the decision of such question. The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.

8. Method of Voting; Proxies: Each Member shall be entitled to a Vote as provided in the Declaration. No Member, other than the Declarant, shall be entitled to vote at any meeting of the corporation until such Member has presented to the Board sufficient evidence of ownership interest in a Lot of the Development Property entitling the Member to voting rights as provided in the Declaration, The Vote(s) of each Member may only be cast by such Member or by a proxy given by such Member to his duly authorized representative. No proxy shall be valid for more than one meeting and shall bear the signature· of the Member making the proxy, the date of the meeting to which the proxy relates and the name of the authorized representative to vote on behalf of the Member, such proxy shall be filed with the secretary of the corporation prior to or at the time of the meeting. If title to any property ownership interest in a Lot(s) of the Development Property entitling the Member to voting rights as provided in the Declaration is in the name of two or more Persons or entities as co-owners, all such Persons or entities shall be Members of the corporation and are referred to herein as a "Joint Member." Any such Joint Member is entitled to one unanimous Vote per entitled Member voting rights as provided in the Declaration at any meeting of the Members of the corporation, and such Vote shall be binding upon the Joint Member until written notice to the contrary has been received by the Board identifying the authorized manner in which the Joint Member's unanimous Vote(s) are to be cast (in person or

by proxy). In the event of disagreement among such Joint Member to cast a Vote, such Joint Member shall not be recognized, and such Vote shall not be counted.

9. Imposition Default: No Owner who is in default in the payment of any Imposition shall be entitled to exercise his right to vote until he has cured such default. An Owner shall be deemed to be in default if he has not paid any imposition to the Board, or its agent, within FIFTEEN (15) days after the due date thereof. An Owner may protest the amount of an Imposition, but it still must be paid during the pendency of his protest to the Board or its agent

10. Cumulative Voting: Cumulative voting for Directors shall not be permitted.

## ARTICLE V. DIRECTORS

1. Management: The business and affairs of the corporation shall be managed by its Board of Directors who may exercise all such powers of the corporation and do all such lawful acts and things as are not by statute, the Declaration, the Charter or these By-Laws directed or required to be exercised or done by the Members.

2. Number; Qualifications; Election; Term: The Board of Directors shall consist of THREE (3) Directors, each of whom shall be a Member of the Association or the Declarant, its subsidiaries, affiliates or authorized representatives. During the Development Period, the Members of the Board of Directors shall be appointed by the Declarant and shall serve at the pleasure of the Declarant. Following the Development Period, Directors shall be elected by the Members. The Board shall consist of ONE (1) Chief Director and TWO (2) Associate Directors, who shall serve terms of TWO (2) years; provided, however, the first Chief Director shall serve a term of THREE (3) years, Directors shall serve without compensation.

3. Removal; Change in Number; Vacancies: Any Director may be removed either for or without cause at any meeting or special meeting of the Members by the affirmative vote of a majority of the Members present in person or by proxy at such meeting and entitled to vote, if notice of the intention to act upon such matter shall have been given in the notice calling such meeting. If any vacancy occurs in the Board of Directors, caused by death, resignation, retirement, disqualification or removal from office, a successor or successors may be appointed by a majority vote of the remaining Board of Directors, and each successor Director so appointed shall serve for the unexpired term of his predecessor in office. Any Directorship to be filled by reason of an increase in the number of Directors shall be filled by election at an annual meeting of the Members or at a special meeting of the Members called for that purpose.

4. Place of Meetings: The Directors of the corporation shall hold their meetings, both regular and special, within Davidson County, Tennessee or such other location as may be selected by unanimous consent of the Directors then elected and serving,

5. Annual Meetings: The annual meeting of each newly elected Board shall be held without further notice immediately following the annual meeting of Members at the same place unless such time or place shall be changed by unanimous consent of the Directors then elected and serving.

6. Regular Meetings. Regular meetings of the Board may be held without notice at such time and place as shall from time to time be determined by the Board.

7. Special Meetings: Special meetings of the Board may be called by the president or a majority of the Directors upon THREE (3) days written notice to each Director, either personally, by mail, by facsimile or by other electronic transmittal. Except as may be otherwise expressly provided by statute, the Charter the Declaration or these By-Laws, neither the business to be transacted nor the purpose of any special meeting need be specified in a notice or waiver of notice.

8. Quorum: At all meetings of the Board of Directors, the presence of a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business. The act of a majority of the Directors present at any such meeting at which there is a quorum shalt be the act of the Board of Directors. If a quorum shall not be present at any meeting of the Directors, the Directors present may adjourn the meeting by announcement at the meeting without notice until a quorum shall be present.

9. Committees Having Board Authority: The Board of Directors may, by resolution approved by vote or written consent by a majority of the whole Board, designate an Architectural Review Committee, a Nominating Committee for members of the Board of Directors and such other committees as deemed necessary that shall consist of one (1) or more of the Directors. Any such committee, to the extent provided in said resolution, shall and may exercise all of the authority of the Board of Directors in the management of the business and affairs of the corporation, except where an action of the full Board of Directors is required by statute or the Charter.

10. Other Committees: Other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the corporation may be designated and appointed by a resolution adopted by a majority of the Directors at a meeting at which a quorum is present. Membership on such committees may, but need not be, limited to Directors or Members of the corporation.

11. Procedure: All committees shall keep regular minutes of their proceedings and shall report same to the Board when required or requested.

12. Managing Agents: The Board of Directors may employ a Management Agent or entity for the corporation at a compensation established by the Board of Directors. Such Management Agent shall perform such duties and services with respect to the Association, as the Board of Directors shall authorize. The Board of Directors may delegate to such Management Agent such duties with respect to management, repair and maintenance of the Development Property which are not by statute, the Declaration, the Charter or these corporate By-Laws required to be performed by or have the approval of the Board of Directors or the Members of the corporation.

## ARTICLE VI. POWERS AND DUTIES

1. The Board shall have the following powers and duties:
   a. To elect and remove the officers of the Association.
   b. To administer the affairs of the Association and Development Property.
   c. To engage the services of a Managing Agent to maintain, repair, replace, administer and operate the Development Property or any part thereof for all Owners upon such terms and for such compensation and with such authority as the Board may be approved.
   d. To formulate policies for administration, management, and operation of the Development Property and the Common Areas.
   e. To enforce the Declaration; to adopt and enforce Rules and Regulations with written notice thereof to all Owners that govern the administration, management, operation and use of the Development Property and Common Areas; and to amend such Rules and Regulations from time to time.
   f. To assess fines, fees and/or similar penalties against Owners for violations of the Declaration, these By-Laws or the Rules and Regulations of the Association; and to make necessary corrections or to take necessary action to achieve compliance at the Owner's expense.
   g. To provide for the maintenance, repair, and replacement of the Common Areas, and to make payments therefor, and to approve payment vouchers or to delegate such approval to the officers, Managing Agent or other authorized agents.
   h. To provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement) administration, management and operation of the Development Property and the Common Areas and to delegate any such powers to the Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent).

i. To appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board or other such directives that are not duties of the Board.
j. To determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems necessary or appropriate.
k. To fix the estimated annual budget and to provide the manner of assessing and collecting from Owners Assessments or other impositions of the Association.
l. To borrow money for the purpose of repair or restoration of Common Areas that are the responsibility of the Association to repair or restore.
m. To secure insurance policies as required or allowed by the Declaration. And in this regard, annually to review the amounts of coverage afforded by such policies.
n. Unless otherwise provided herein or in the Declaration, to comply with the instructions expressed in resolutions duly adopted at any annual or special meeting of Owners by a majority Vote of the Owners at such meeting unless some other percentage Vote by the Members is required by the Declaration.
o. To exercise all other rights, powers and duties on behalf of the Owners as provided or referred to in the Declaration or these By-Laws.

2. Authority of Board to Act for Association: Whenever in these By-Laws the Association is given the power to take any action, it is the intention of these By-Laws that the Board shall act for the Association in all cases, except and to the extent that it is expressly provided that action be taken upon Vote of the Owners.

3. Non-Delegation: Nothing in these By-Laws shall be considered to grant to the Board, the Association or the officers of the Association, any powers or duties which, by law, have been delegated to Owners.

## ARTICLE VII. OFFICERS

1. Number; Titles: The officers of the corporation shall be elected by the Directors from among the members of the Board of Directors and shall be a president, a secretary, and a treasurer. The president shall also be the Chief Director. Any TWO (2) or more offices may be held by the same person except the offices of president and secretary shall not be held by the same person.

2. Election: The Board of Directors at its first meeting after each annual meeting of Members shall choose a president, a secretary, a treasurer and such additional officers as the Board shall see fit to elect, all of whom shall be members of the Board.

3. Other Officers: The Board of Directors may appoint such other officers and agents as it shall deem necessary, who shall be appointed for such terms, exercise such powers and perform such duties as shall be determined from time to time by the Board.

4. Salaries: The salaries of all officers of the corporation, if any, shall be fixed by the Board of Directors but shall never be greater than an amount equal to the Annual Assessment due per Member as provided in the Declaration. A person holding multiple offices may only collect a salary for ONE (1) office.

5. Term of Office; Removal: Each officer of the corporation shall hold his office until the annual meeting of the Board of Directors next following his election until a successor is chosen and qualified in his stead or until death, resignation or removal from office. Any officer or agent elected or appointed by the Board of Directors may be removed at any time by the affirmative vote of a majority of the whole Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors.

6. President: The president shall be the chief executive officer of the corporation and shall serve as the Chief Director. The president shall preside at all meetings of the Members and the Board of Directors, shall have the general and active management of the affairs of the corporation, shall see that all orders and resolutions of the Board are carried into effect and shall perform such other duties as the Board of Directors shall prescribe.

7. Secretary: The secretary or the designated agent of the secretary shall attend all sessions of the Board of Directors and all meetings of the Members, shall record and maintain records of all votes and the minutes of all proceedings and shall perform like duties for any committees when required. The secretary or the designated agent of the secretary shall give, or cause to be given1 notice of all meetings of the Members and special meetings of the Board of Directors and shall perform such other duties as may be prescribed by the Board of Directors or president. If the secretary is not able to perform any duty as described herein or otherwise provided, it is the sole responsibility of the secretary to delegate such duties until such time that the Secretary resumes these duties.

8. Treasurer: The treasurer or the designated agent of the treasurer shall have the custody of the corporate funds and securities, shall keep full and accurate accounts of receipts and disbursements of the corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the Board of Directors. The treasurer or the designated agent of the treasurer shall disburse the funds of the corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements. At the regular meetings of the Board, or whenever they may require it, the treasurer or the designated agent of the treasurer shall render to the president and Directors an account of all transactions of the treasurer and of the financial condition of the corporation. The treasurer or the designated agent of the treasurer shall perform such other duties as the Board of Directors may prescribe; and, if required by the Board of Directors, the treasurer or the designated agent of the treasurer shall give the corporation a bond in such form, in such sum, and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of said office and for the restoration to the corporation of all books, papers, vouchers, money, and other property of any kind whatsoever belonging to the corporation in the treasurer's possession or under his control in case of death, resignation, retirement, or removal from office.

## ARTICLE VIII. MISCELLANEOUS PROVISIONS

1. Use by Developer. During the Development Period, the Developer, and the Developer's agents, employees, contractors and subcontractors, and their respective agents and employees, shall be entitled to access, ingress to and egress from said Buildings and Property as may be required for purposes of the development and sale of the Unit(s).

2. Reserves: The Board shall provide for such reserve or reserves as the Directors from time to time, in their discretion, think proper to provide for contingencies, or to repair or maintain any portion of the Development Property, or for such other purposes as the Directors shall think beneficial to the corporation.

3. Checks: All checks or demands for money and notes of the corporation shall be signed by such officer or officers or such other person or persons as the Board may from time to time designate.

4. Fiscal Year: The fiscal year of the corporation shall be fixed by the Board.

5. Seal: The corporate seal, if any, shall be in such form as may be determined by the Board. Said seal may be used by causing it or a facsimile thereof to be impressed, affixed or otherwise reproduced for such use.

6. Mortgages and Notice to Board: An Owner who mortgages his Lot shall notify the Board of the name and address of his mortgagee and shall file a confirmed copy of the note and deed of trust or mortgage with the Board, and the Board shall maintain such information in the records of the Association,

7. Notice of Unpaid Common Charges: The Board, whenever so requested in writing by a Mortgagee of a Lot, shall promptly report any then unpaid impositions, charges therefrom or any other default by the Owner of the mortgaged Lot

8. Indemnification: The corporation shall indemnify any current or former Director, officer, or employee of the corporation against expenses actually and necessarily incurred by him and any amount paid in satisfaction of judgments, in connection with any action, suit or proceeding, whether civil or criminal in nature, in which he is made a party by reason of being or having been such a Director, officer or employee (whether or not a Director, officer or employee at the time such costs or expenses are incurred by or imposed upon him) except in relation to matters in which he shall have been adjudged in such action, suit or proceeding to be liable

for gross negligence or willful misconduct in the performance of his duty. The corporation may also reimburse to any Directors, officer or employee the reasonable costs of settlement of any such action, suit or proceedings; if it shall be found by a majority of the Directors not involved in the matter of controversy, whether or not a quorum, that it was in the interest of the corporation that such settlement be made and that such Director, officer or employee was not guilty of gross negligence or willful misconduct. Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights to which such Director, officer or employee may be entitled by law or under By-law, agreement, Vote of Members or otherwise.

9. Inconsistencies: In the event, these By-Laws shall be inconsistent with the Declaration, then the Declaration shall be controlling.

10. Amendment of By-Laws: These By-Laws may not be altered, amended or repealed except by the affirmative vote of not less than FIFTY PERCENT (50%) of the Members present at a duly called meeting of the Association or the affirmative written consent of such percentage of the Members at which a quorum is present unless a higher percentage vote is required elsewhere in the Declaration or applicable law. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered, any such amendment shall be certified by the president or secretary of the Association as having been duly adopted and shall be effective upon recording same in the Register's Office for Davidson County, Tennessee. However, these By-Laws may not be amended by the Lot Owners during the Development Period without the express written approval of the Declarant except as provided in the Declaration, no amendment shall discriminate against any Lot Owner or against any Lot or class or group of Lots unless the Lot Owner(s) so affected shall consent.

11. Headings: The headings used in these By-Laws have been inserted for administrative convenience only and do not constitute matters to be construed in Interpretation.

The foregoing By-Laws are hereby adopted as the By-Laws of The Townhomes at 211 and 213 Marcia Avenue Homeowners' Association, Inc., by the undersigned as of this the 29th day of March, 2022.

DEVELOPER: TN ROOSTER, LP

BY: XENIA B. HOM

ITS: Authorized Agent

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego )

On April 4th, 2022 before me, Shahrzad Abbasian/Notary Public
(insert name and title of the officer)

personally appeared Xenia Hom,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SHAHRZAD ABBASIAN
COMM. # 2281034
NOTARY PUBLIC • CALIFORNIA
SAN DIEGO COUNTY
My Commission Expires
March 30, 2023
BSC2 BSC2

Signature _____ (Seal)

## EXHIBIT D

MAINTENANCE RESPONSIBILITY – SUMMARY

| | Unit Owner(s) | Association |
|---|---|---|
| Air Conditioner/ furnace / water heater | X | |
| Kitchen Appliances | X | |
| Water leaks (roof, windows) | X | |
| The structural integrity of each unit | X | |
| Common Ground | X | |
| Shared Driveway/parking lot | X | |
| Front and Rear Steps | X | |
| Exterior doors (repairs / replacements) | X | |
| Interior maintenance | X | |
| Electrical connections and wiring | X | |
| Garage | X | |
| Mailboxes | X | |
| Plumbing (outside wall to meter) | X | |
| Plumbing (interior lines) | X | |
| Painting (exterior – all surfaces) | X | |
| Patio / Balcony | X | |
| Roof / Gutter (repair / replace) | X | |
| Sidewalks | X | |
| Siding/ exterior trim (repair / replace) | X | |
| Trees (Common Areas) | X | |
| Lawn Mowing/tree shrub trimming | X | |
| Garbage Pick-up and dumpster | X | |
| Exterior lighting | X | |
| Windows /s sliding doors/ screens/ doors | X | |
| Anything not shown on the chart | X | |

## EXHIBIT E

Copy of Filed Charter of The Townhomes at 211 Marcia Avenue Homeowners' Association, Inc. and the Articles of Amendment to the Nonprofit Charter correcting the name of the homeowners' association to The Townhomes at 211 and 213 Marcia Avenue Homeowners' Association, Inc.

001299578

# CHARTER
# NONPROFIT CORPORATION

SS-4418

**Tre Hargett**
Secretary of State

**Division of Business Services**
**Department of State**
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102
(615) 741-2286

Filing Fee: $100.00

*For Office Use Only*

-FILED-

Control # 001299578

**The undersigned, acting as incorporator(s) of a nonprofit corporation under the provisions of the Tennessee Nonprofit Corporation Act, adopt the following Articles of Incorporation.**

**1. The name of the corporation is:** The Townhomes at 211 Marcia Avenue Homeowners' Association Inc.

**2. Name Consent: (Written Consent for Use of Indistinguishable Name)**
☐ This entity name already exists in Tennessee and has received name consent from the existing entity.

**3. This company has the additional designation of:** None

**4. The name and complete address of its initial registered agent and office located in the State of Tennessee is:**
PARACORP INCORPORATED
STE B
992 DAVIDSON DR
NASHVILLE, TN 37205-1051
DAVIDSON COUNTY

**5. Fiscal Year Close Month:** December **Period of Duration:** Perpetual

**6. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date and time is:**
(none) (Not to exceed 90 days)

**7. The corporation is not for profit.**

**8. Please complete all of the following sentences by checking one of the two boxes in each sentence:**
This corporation is a ☐ public benefit corporation / ☑ mutual benefit corporation.
This corporation is a ☐ religious corporation / ☑ not a religious corporation.
This corporation will ☑ have members / ☐ not have members.

**9. The complete address of its principal office is:**
10755 SCRIPPS POWAY PKWY # 609
SAN DIEGO, CA 92131-3924

***(Note: Pursuant to T.C.A. §10-7-503 all information on this form is public record.)***

B1189-3319 03/29/2022 11:39 AM Received by Tennessee Secretary of State Tre Hargett

# CHARTER
# NONPROFIT CORPORATION

SS-4418

**Tre Hargett**
Secretary of State

**Division of Business Services**
**Department of State**
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102
(615) 741-2286

Filing Fee: $100.00

*For Office Use Only*
-FILED-
Control # 001299578

**The name of the corporation is:** The Townhomes at 211 Marcia Avenue Homeowners' Association Inc.

**10. The complete mailing address of the entity (if different from the principal office) is:**
JON WAGENMAN
4005 INDIANA AVE
NASHVILLE, TN 37209-2429

**11. List the name and complete address of each incorporator:**

| Title | Name | Business Address | City, State, Zip |
|---|---|---|---|
| Incorporator | Jon Wagenman | 4005 INDIANA AVENUE | NASHVILLE, TN 37209 |
| | | | |
| | | | |
| | | | |

**12. School Organization:** (required if the additional designation of "School Organization - Exempt" is entered in section 3.)

☐ I certify that pursuant to T.C.A. §49-2-611, this nonprofit corporation is exempt from the $100 filing fee required by T.C.A. §48-51-303(a)(1).

☐ This nonprofit corporation is a "school support organization" as defined in T.C.A. §49-2-603(4)(A).

☐ This nonprofit corporation is an educational institution as defined in T.C.A. §48-101-502(b).

**13. Insert here the provisions regarding the distribution of assets upon dissolution:**
In the event of dissolution of the Corporation, the residual assets of the Corporation (after all creditors of the Corporation have been paid), shall be distributed to the members prorated in accordance with their respective membership interests.

**14. Other Provisions:**

***(Note: Pursuant to T.C.A. §10-7-503 all information on this form is public record.)***

| Electronic | Incorporator |
|---|---|
| Signature | Title/Signer's Capacity |
| Jon Wagenman | Mar 29, 2022 11:39AM |
| Printed Name | Date |

B1189-3320 03/29/2022 11:39 AM Received by Tennessee Secretary of State Tre Hargett



202204190044893

State of Tennessee

**Department of State**
Corporate Filings
312 Rosa L. Parks Avenue
6th Floor, William R. Snodgrass Tower
Nashville, TN 37243

# ARTICLES OF AMENDMENT TO THE CHARTER (Nonprofit)

*For Office Use Only*

**FILED**

Corporate Control Number (If Known) 001299578

Pursuant to the provisions of section 48-60-105 of *The Tennessee Nonprofit Corporation Act,* the undersigned corporation adopts the following articles of amendment to its charter:

1. Please insert the name of the corporation as it appears of record:
   The Townhomes at 211 Marcia Avenue Homeowners' Association Inc.
   If changing the name, insert the new name on the line below:
   The Townhomes at 211 and 213 Marcia Avenue Homeowners' Association Inc.

2. Please check the block that applies:
   ☑ Amendment is to be effective when filed by the secretary of state.
   ☐ Amendment is to be effective, _____ (month, day, year)
   (Not to be later than the 90th day after the date this document is filed.) If neither block is checked, the amendment will be effective at the time of filing.

3. Please insert any changes that apply:
   a. Principal address: _____ (Street) (City) (State/County) (Zip Code)
   b. Registered agent: _____
   c. Registered address: _____ (Street) (City) (State/County) (Zip Code)
   d. Other changes: _____

4. The corporation is a nonprofit corporation. Yes

5. The manner (if not set forth in the amendment) for implementation of any exchange, reclassification, or cancellation of memberships is as follows:

6. The amendment was duly adopted on 04/01/2022 (month, day, year) by (please check the block that applies):
   ☑ The incorporators without member approval, as such was not required.
   ☐ The board of directors without member approval, as such was not required.
   ☐ The members

7. Indicate which of the following statements applies by checking the applicable block:
   ☑ Additional approval for the amendment (as permitted by §48-60-301 of the tennessee nonprofit corporation act) was not required.
   ☐ Additional approval for the amendment was required by the charter and was obtained.

Attorney for Homeowners' Association
Signer's Capacity

Signature

04/01/2022
Date

Seth N. Cline
Name of Signer (typed or printed)

SS-4416 **Filing Fee: $20** RDA 1678

202204190044893

B1465275 04/01/2022 2:11 PM Received by Tennessee Secretary of State Tre Hargett

**EXHIBIT F**

THIS INSTRUMENT WAS PREPARED BY:
Seth N. Cline, Esq.
**COLLINS LEGAL, PLC**
414 Union Street
Suite 1110
Nashville, TN 37219
615-736-9596
seth@collins.legal

ATTORNEY'S CERTIFICATE

This document is intended to serve as the attorney's opinion which is required under the terms of Tennessee Code Annotated, § 66-27-103. The undersigned, Seth N. Cline, an attorney licensed to practice law in the State of Tennessee, hereby declares that upon the proper recording of this certificate and the following additional documents, all legal requirements for the creation of a Horizontal Property Regime development under the terms of the Tennessee Horizontal Property Act, Tennessee Code Annotated §§ 66-27-101 et seq. will have been met.

1. The Declaration is establishing The Townhomes at 211 Marcia Avenue Homeowners' Association, Inc., a Horizontal Property Regime.
2. By-laws of The Townhomes at 211 Marcia Avenue Homeowners' Association, Inc., Townhouse corporation as described in Tennessee Code Annotated § 66-27-102(15).
3. The Plan for The Townhomes at 211 Marcia Avenue Homeowners' Association, Inc., a Horizontal Property Regime, attached as Exhibit B hereto.
4. The Charter of The Townhomes at 211 Marcia Avenue Homeowners' Association, Inc., a Townhouse corporation organized under the Tennessee Nonprofit Corporation Act, title 48 chapters 51-68.

WITNESS my hand this 29th day of March, 2022.

Seth N. Cline

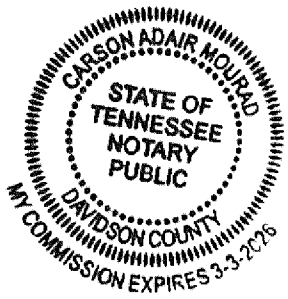
STATE OF TENNESSEE )
COUNTY OF DAVIDSON )

Before me, the undersigned, a Notary Public within and for the State and County aforesaid, personally appeared Seth N. Cline with who I am personally acquainted, executed the foregoing instrument for the purposes therein contained.

Witness my hand and official seal on this the 29th day of March, 2022.

Commission Expires: 3-3-2026

Notary Public



## TENNESSEE CERTIFICATION OF ELECTRONIC DOCUMENTS

I, Seth Cline, do hereby make oath that I am a licensed attorney and/or the custodian of the original version of the electronic document tendered for registration herewith and that this electronic document is a true and exact copy of the original document executed and authenticated according to law on 4/4/2022 (date of document).

**Affiant Signature**

4/4/2022

**Date**

State of Tennessee County of Davidson Sworn to and subscribed before me this 4 day of April, 2022.

**Notary Public**

Notary's Seal:

MADELYN N REYNOLDS
STATE OF TENNESSEE
NOTARY PUBLIC
My Commission Expires on 11/06/2024
DAVIDSON COUNTY

MY COMMISSION EXPIRES: 11/06/2024