

Division of Corporations

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**ARTICLES OF AMENDMENT AND RESTATEMENT
 OF
 ARTICLES OF INCORPORATION
 OF
 THE HOLOCAUST MUSEUM & EDUCATION CENTER OF SOUTHWEST
 FLORIDA, INC.
 (f/k/a SOUTHWEST FLORIDA HOLOCAUST MUSEUM INC.)
 (A Florida Corporation Not-For-Profit)**

Document Number: N01000000676

Pursuant to the provisions of Sections 617.1001 through 617.1007 of the Florida Not For Profit Corporation Act (the "Act"), this Florida Not For Profit Corporation, THE HOLOCAUST MUSEUM & EDUCATION CENTER OF SOUTHWEST FLORIDA, INC. (f/k/a SOUTHWEST FLORIDA HOLOCAUST MUSEUM INC.) (the "Corporation"), adopts the following amendments to and restatement of its initial Articles of Incorporation:

AMENDMENTS ADOPTED: On the 2nd day of May, 2016, the Board of Directors of the Corporation, by unanimous vote, approved and adopted the following amendments to the Corporation's Articles of Incorporation and their restatement, in their entirety, to read as follows:

**AMENDED AND RESTATED
 ARTICLES OF INCORPORATION
 OF
 THE HOLOCAUST MUSEUM & EDUCATION CENTER OF SOUTHWEST
 FLORIDA, INC.
 (f/k/a SOUTHWEST FLORIDA HOLOCAUST MUSEUM INC.)
 (A Florida Corporation Not-For-Profit)**

Pursuant to the provisions of Sections 617.1001 through 617.1007 of the Act, the Corporation hereby adopts the following amended and restated Articles of Incorporation:

1. **Name.** The name of the corporation is THE HOLOCAUST MUSEUM & EDUCATION CENTER OF SOUTHWEST FLORIDA, INC. (the "Corporation").
2. **Principal Business Address.** The principal business address of the Corporation is: 4760 TAMIAMI TRAIL NORTH, SUITE 7, NAPLES, FL 34103.
3. **Not-for-profit Corporation.** The Corporation has been formed for not-for-profit purposes and shall not have or issue shares of stock or make distributions.
4. **No Members.** The Corporation shall have no members.

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5. **Registered Agent.** The street address of the Corporation's registered office and the name of its registered agent at that address are as follows:
- | | |
|-----------------------|---|
| <u>Agent:</u> | <u>Business Address:</u> |
| Howard M. Hujsa, Esq. | c/o Cummings & Lockwood LLC,
3001 Tamiami Trail North, Suite 400
Naples, FL 34103 |
6. **Incorporators.** The names of the Corporation's incorporators on January 29, 2001, were Godfrey H. Levy and Michael A. Feldman.
7. **Exempt Nature of Activities and Purposes.** The Corporation is organized and shall be operated exclusively for literary, charitable and/or educational purposes, each within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as the same may be amended from time to time and the corresponding provisions of any future United States Internal Revenue law (the "Code"), including, in particular, furthering educational purposes through its activities, which will include, but are not limited to, the following: to own, operate, and maintain a permanent museum and memorial to the victims and survivors of the Holocaust, also known as the Shoah; to commemorate, remember, study, and interpret the particular and universal lessons of the Holocaust and related issues, including those of contemporary significance; to secure universal affirmation of the Holocaust; to support the prevention of genocide; and to present permanent, rotating, and traveling exhibits, as well as memorial and public programs, in furtherance of these purposes (the "Corporation's 501(c)(3) Exempt Purposes"). It is intended that the Corporation shall be exempt from federal income tax under Section 501(a) of the Code as an organization described in Section 501(c)(3) of the Code, and that it shall qualify as an organization transfers to which are deductible for federal income, gift, and estate tax purposes by residents and citizens of the United States of America (a "Qualified Charitable Organization").
8. **Board of Directors.** The activities, property, and affairs of the Corporation shall be managed by or under the direction of the Board of Directors (the "Board"), which shall be composed of not fewer than three (3) persons. The Board shall exercise all the powers and authority of the Corporation, in accordance with these Articles of Incorporation and the Bylaws of the Corporation from time to time in effect. The Board shall continue to consist of the individuals listed on Exhibit "A" attached hereto. The manner of the election and qualifications of future Directors, and other matters relating to the Board, shall be as provided in the Bylaws.
9. **Board's Authority.** Subject to the restrictions and limitations of the Article of these Articles of Incorporation entitled "Prohibitions," and the condition that no power or discretion shall be exercised by the Board in any manner or for any purpose that is not consistent with the Corporation's 501(c)(3) Exempt Purposes, its qualification as a Qualified Charitable Organization, and any Valid Restrictions (as defined below) imposed on contributions to the Corporation, but without

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otherwise limiting the powers conferred upon the Board by law, the Board is authorized:

- (a) To receive and accept gifts, legacies, grants, loans, and other contributions to the Corporation from any persons or entities, in cash or in other property acceptable to the Board, including restricted contributions; provided that any restrictions are consistent with the Corporation's 501(c)(3) Exempt Purposes and its qualification as a Qualified Charitable Organization and are imposed by the donor by a written instrument that is accepted by the Board by resolution ("Valid Restrictions").
- (b) To acquire by purchase, lease or otherwise, to retain, hold, own, occupy, use, manage, improve, develop, maintain or lease, and to sell, mortgage, transfer, invest in or reinvest in, or otherwise deal with any real or personal property (tangible or intangible) of whatever kind and description and wherever situated, or with any estate or interest, legal or equitable, in the property, without regard to diversification or to whether some or all of the property so acquired or retained is unproductive or wasting or is of a kind or size which, but for this express authority, would not be considered proper.
- (c) To borrow money and to make, accept, endorse, execute and issue promissory notes and any other obligations for payment for property acquired or money borrowed.
- (d) To maintain and administer the Corporation's assets, including all contributions received, all income earned on those assets and contributions, and any gains therefrom (the "Corporation's Funds") and, unless otherwise specifically required, to mingle restricted contributions with other assets of the Corporation's Funds for investment purposes.
- (e) To use and apply the Corporation's Funds, make expenditures and payments therefrom, and make distributions, program-related loans, program-related investments, and other grants from the Corporation's Funds, in such amounts, at such times, in such manner, and for such of the Corporation's 501(c)(3) Exempt Purposes as the Board in its sole discretion determines from time to time, subject to any Valid Restrictions imposed on contributions to the Corporation's Funds.
- (f) To initiate and participate in fundraising activities, expeditions, or other projects that may be undertaken by the Corporation in order to further or promote the Corporation's 501(c)(3) Exempt Purposes.
- (g) To the extent a corporation organized under the Act may now or hereafter lawfully do so, to engage in or carry on any and every act or activity necessary, suitable, convenient, or proper for, in connection with, or incident to the promotion, furtherance, or accomplishment of any of the

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Corporation's 501(c)(3) Exempt Purposes, or designed, directly or indirectly, to promote the interests of the Corporation, and to engage in any lawful act or activity that is consistent with the Corporation's 501(c)(3) Exempt Purposes and its qualification as a Qualified Charitable Organization.

(h) To obtain and maintain adequate insurance for the purposes of section 13 of these Articles.

10. **Officers.** The officers and their manner of election shall be as provided in the Bylaws.

11. **Prohibitions.** Notwithstanding any other provision of these Articles of Incorporation, the Corporation's activities and the Board's authority shall be subject to the following restrictions and limitations:

(a) The Corporation shall not carry on any activities not permitted to be carried on by a Qualified Charitable Organization.

(b) No part of the Corporation's Funds shall inure to the benefit of or be distributable to the Corporation's Directors, officers, or any other private individual or entity, except in furtherance of the Corporation's 501(c)(3) Exempt Purposes, as payment of reasonable compensation for services rendered, or as payment or reimbursement of reasonable expenses necessary to carrying out the Corporation's 501(c)(3) Exempt Purposes.

(c) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate or intervene in (including the publication or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

(d) To the extent that Section 508 and the provisions of Chapter 42 of the Code are applicable to the Corporation, the Corporation shall distribute such amounts from the Corporation's Funds for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of the Code.

(e) To the extent that Section 508 and the provisions of Chapter 42 of the Code are applicable to the Corporation, the Corporation shall not (a) engage in any act of self-dealing as defined in Section 4941(d) of the Code, (b) retain any excess business holdings as defined in Section 4943(c) of the Code, (c) make any investments in such manner as to subject it to tax under Section 4944 of the Code, or (d) make any taxable expenditures as defined in Section 4945(d) of the Code.

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- 12. **Liquidation or Dissolution.** The Corporation may be liquidated or dissolved at any time. Subject to any Valid Restrictions imposed on contributions to the Corporation, upon the winding up and dissolution of the Corporation, all the Corporation's assets remaining after payment or adequate provision for the lawful debts and obligations of the Corporation and the expenses of its liquidation or dissolution shall be distributed (i) for such of the Corporation's 501(c)(3) Exempt Purposes (including by distribution to or for the use of one or more Qualified Charitable Organizations) and in such manner and proportions as are provided for in the plan of distribution of assets adopted by the Corporation, or (ii) to the federal government, or (iii) to a state or local government for a public purpose, or (iv) by the Circuit Court of the Judicial Circuit in which the principal office of the Corporation is then located (or any court of competent jurisdiction if the principal office of the Corporation is then located outside the State of Florida), exclusively for such of the Corporation's 501(c)(3) Exempt Purposes or to such one or more Qualified Charitable Organizations having similar purposes as the court shall determine.
- 13. **Civil Immunity.** It is intended that the Corporation shall be an organization the officers and Directors of which are immune from civil liability to the extent provided under Section 617.0834 of the Act and other applicable laws.
- 14. **Amendment.** These Articles of Incorporation may be amended as provided in the Bylaws for a purpose that is consistent with the Corporation's qualification as a Qualified Charitable Organization, and any Valid Restrictions imposed on contributions to the Corporation's Funds; provided, however, that no amendment hereto may remove these restrictions on amendment.

These Articles of Amendment and Restatement were adopted by the Directors on May 2, 2016, and the number of votes cast for the Amendment and Restatement by the Directors was sufficient for approval.

Dated at Naples, Florida, this June 14, 2016.

The undersigned hereby declares, under the penalties of false statement, that the statements made in the foregoing Articles are true.

THE HOLOCAUST MUSEUM &
EDUCATION CENTER OF SOUTHWEST
FLORIDA, INC. (f/k/a SOUTHWEST
FLORIDA HOLOCAUST MUSEUM INC.)

By: 
Herbert Berkeley, Chairperson

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**CERTIFICATE OF DESIGNATION OF
REGISTERED AGENT/REGISTERED OFFICE**

PURSUANT TO THE PROVISIONS OF SECTION 617.0501, FLORIDA STATUTES, THE UNDERSIGNED CORPORATION, ORGANIZED UNDER THE LAWS OF THE STATE OF FLORIDA, SUBMITS THE FOLLOWING STATEMENT IN DESIGNATING THE REGISTERED OFFICE/REGISTERED AGENT, IN THE STATE OF FLORIDA.

1. The name of the corporation is:

**THE HOLOCAUST MUSEUM & EDUCATION CENTER OF SOUTHWEST
FLORIDA, INC.**

2. The name and address of the registered agent and office is:

Howard M. Hujsa, Esq.
c/o Cummings & Lockwood LLC, 3001 Tamiami Trail North, Suite 400
Naples, FL 34103

Having been named as registered agent and to accept service of process for the above-stated corporation at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent:


Howard M. Hujsa

Dated: June 14, 2016

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