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ACCOUNT NO. : 072100000032  
REFERENCE : 612625 5801A  
AUTHORIZATION :  
COST LIMIT : \$ PPD

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
00 MAR -6 PM 3:18

ORDER DATE : March 6, 2000  
ORDER TIME : 11:37 AM  
ORDER NO. : 612625-005  
CUSTOMER NO: 5801A

CUSTOMER: Christopher J. Shields, Esq  
PAVESE HAVERFIELD DALTON  
PAVESE HAVERFIELD DALTON  
1833 Hendry Street  
Fort Myers, FL 33901-3095

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DOMESTIC FILING

NAME: HERITAGE HARBOUR MERCHANTS  
ASSOCIATION, INC.

EFFECTIVE DATE:

XX ARTICLES OF INCORPORATION  
       CERTIFICATE OF LIMITED PARTNERSHIP

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY  
       PLAIN STAMPED COPY  
       CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Erika Carlson

EXAMINER'S INITIALS:

g 3/6/00

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00 MAR -6 PM 12:53  
DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS  
TALLAHASSEE, FLORIDA

**ARTICLES OF INCORPORATION  
OF  
HERITAGE HARBOUR  
MERCHANTS ASSOCIATION, INC.**

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The undersigned, acting as the incorporator, under the laws of the State of Florida, Florida Statutes, Chapter 617, hereby sets forth and declares:

**ARTICLE I**

The name of this corporation is HERITAGE HARBOUR MERCHANTS ASSOCIATION, INC., a not for profit corporation (the "Merchants Association").

**ARTICLE II**

The nature of the business to be transacted shall be to engage in any activity or business permitted under the laws of the United States and of this State, pursuant to Chapter 617 of the Florida Statutes. The Master Association is organized for the purpose of providing an entity for the operation of a commercial planned development known as Heritage Harbour Merchants Centre, located in Manatee County, Florida.

The Merchants Association is organized and shall exist upon a non-stock basis as a non-profit corporation under the laws of the State of Florida, and no portion of any earnings of the Merchants Association shall be distributed or inure to the private benefit of any member, Director or officer of the Merchants Association. For the accomplishment of its purposes, the Merchants Association shall have all of the common law and statutory powers and duties of a Merchants Association not for profit under Florida law, except as limited or modified by these Articles, the Declaration of Covenants, Conditions and Restrictions or the By-Laws of this Merchants Association, and it shall have all of the powers and duties reasonably necessary to operate the Development pursuant to the Declaration as it may hereafter be amended including, but not limited to, the following:

- (A) To levy and collect assessments against all Members of the Merchants Association to defray the costs, expenses and losses of the Merchants Association, and to use the proceeds of assessments in the exercise of its power and duties.
- (B) To own, lease, maintain, repair, replace or operate the Common Areas
- (C) To purchase insurance upon the Common Areas for the protection of the Merchants Association and its members.
- (D) To reconstruct improvements after casualty and to make further improvements of the Common Areas.

(E) To make, amend and enforce reasonable rules and regulations governing the use of the Common Areas and the operation of the Merchants Association.

(F) To sue and be sued, and to enforce the provisions of the Declaration, these Articles and the By-Laws of the Merchants Association.

(G) To contract for the management and maintenance of the Common Areas and to delegate any powers and duties of the Merchants Association in connection therewith except such as are specifically required by the Declaration to be exercised by the Board of Directors or the membership of the Merchants Association.

(H) To employ accountants, attorneys, architects or other professional personnel to perform the services required for proper operation of the Properties.

(I) To acquire, own and convey real property and to enter into agreements or acquire leaseholds, easements, memberships and other possessory or use interests in lands or facilities such as country clubs, golf courses, marinas and other recreational facilities. It has this power whether or not the lands or facilities are contiguous to the lands of the Development, if they are intended to provide enjoyment, recreation or other use or benefit to the members.

(J) To borrow or raise money for any purposes of the Merchants Association; to draw, make, accept, endorse, execute and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable or non-negotiable instruments and evidence of indebtedness; and to secure the payment of any thereof, and of the interest therein, by mortgage pledge, conveyance or assignment in trust, of the whole or any part of the rights or property of the Corporation.

(K) To be responsible in perpetuity for maintenance of the Preservation areas (i.e., all preserved, restored or created wetlands areas and upland buffer zones); and to take action against Plot Owners or Section Associations, if necessary, to enforce the conditions of the permit issued by Southwest Florida Water Management District ("SWFWMD") for the Development.

(L) To be the responsible entity to operate and maintain the stormwater management system as permitted by SWFWMD, including but not limited to, all lakes, retention areas, culverts and related appurtenances.

Except as provided herein and in the Merchants Declaration, all funds and title to all property acquired by the Merchants Association shall be held for the benefit of the members in accordance with the provisions of the Declaration, these Articles of Incorporation, and the By-Laws.

### **ARTICLE III**

The Merchants Association shall have perpetual existence.

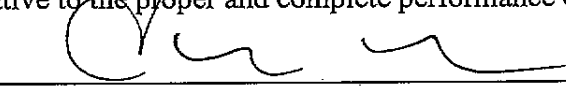
#### ARTICLE IV

The qualifications required for membership, and the manner in which members shall be admitted to membership, shall be as stated in the Declaration and/or the By-Laws of the Merchants Association. Each and every owner of a plot in this subdivision shall be a member of this Association.

#### ARTICLE V

The street address of the initial principal office of this Merchants Association is 337 Interstate Blvd., Sarasota, Florida 34240. The name of the initial registered agent of this Merchants Association is Christopher J. Shields, and the address of the initial registered office is 1833 Hendry Street, Fort Myers, Florida 33901.

Having been named to accept service of process for Heritage Harbour Merchants Association, Inc., I hereby agree to act in this capacity and I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties.

ACCEPTED By: 

#### ARTICLE VI

The number of Directors shall initially consist of three (3) but may be increased pursuant to the By-Laws, and in no event shall there be fewer than three (3) in number. Directors shall be elected, or appointed to fill a vacancy, in accordance with the By-Laws of the Merchants Association.

#### ARTICLE VII

The name and mailing address of the Directors, President, Vice President and Secretary/Treasurer, who, subject to the By-Laws of the Merchants Association shall hold office for the first year of existence of this Merchants Association or until his or her successor is elected and has qualified, are:

<u>NAME</u>	<u>ADDRESS</u>
Robert T. Allegra, President/Director	337 Interstate Blvd. Sarasota, Florida 34240
Carolyn Jeffries, Vice President/Director	337 Interstate Blvd. Sarasota, Florida 34240
W. David Key, Jr., Secretary/Treasurer/ Director	337 Interstate Blvd. Sarasota, Florida 34240

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### **ARTICLE VIII**

The Merchants Association is empowered to do and perform all acts reasonably necessary to accomplish the purposes of the Merchants Association, which acts are not inconsistent with the powers provided for in Chapter 617, Florida Statutes.

### **ARTICLE IX**

The name and address of the incorporator of this corporation is as follows:

#### **NAME**

Christopher J. Shields

#### **ADDRESS**

1833 Hendry Street  
Fort Myers, Florida 33901

### **ARTICLE X**

By-Laws of the Merchants Association may be adopted, made, altered or rescinded by the Directors at any regular meeting or any special meeting called for that purpose, so long as they are not inconsistent with the provision of these Articles.

### **ARTICLE XI**

Amendment to the Articles of Incorporation may be proposed by any Director at any regular or special business meeting of the Board of Directors at which a majority is present and, if obtaining a two-thirds (2/3) vote of the Board of Directors present and voting at such meeting properly called and noticed as provided in the By-Laws, shall be submitted to a vote of the membership. If approved by a two-thirds (2/3) affirmative vote of the membership at a meeting of the members properly called and noticed as provided in the By-Laws, such Amendment shall be forwarded to the Secretary of State of the State of Florida and filed and shall become effective upon issuance, by said officer, of a certificate reflecting same.

### **ARTICLE XII**

The Merchants Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Merchants Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Merchants Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit Merchants Association, association, trust or other organization to be devoted to such similar purposes.

### ARTICLE XIII

To the fullest extent permitted by Florida law, the Merchants Association shall indemnify and hold harmless every Director and every officer of the Corporation against all expenses and liabilities, including attorneys fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director or officer of the Merchants Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication established that his actions or omissions to act were material to the cause adjudicated and involved:

- (A) Willful misconduct or a conscious disregard for the best interest of the Merchants Association, in a proceeding by or in the right of the Merchants Association to procure a judgment in its favor.
- (B) A violation of criminal law, unless the Director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe his action was lawful.
- (C) A transaction from which the Director or officer derived an improper personal benefit.
- (D) Wrongfully conduct by Directors or officers appointed by the Developer, in a proceeding brought by or on behalf of the Merchants Association.

In the event of a settlement, the right to indemnification shall not apply unless the Board of Directors approved such settlement as being in the best interest of the Merchants Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which a Director or officer may be entitled.

IN WITNESS WHEREOF, I CHRISTOPHER J. SHIELDS, being the incorporator of the Corporation for the purpose of forming a corporation under the laws of the State of Florida do make, subscribe, acknowledge and file the foregoing Articles of Incorporation, hereby certifying that the facts therein stated are true, and accordingly set our hands and seals this 3rd day of MARCH, 2000.

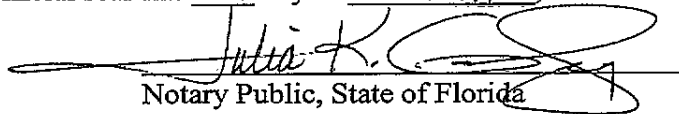
  
CHRISTOPHER J. SHIELDS

STATE OF FLORIDA  
COUNTY OF LEE

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DIVISION OF CORPORATIONS  
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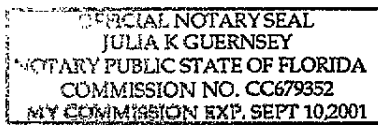
I HEREBY CERTIFY that before me the undersigned authority, duly authorized to take acknowledgments and administer oaths, personally appeared CHRISTOPHER J. SHIELDS, whois known to me to be the person who made and subscribed to the foregoing Articles of Incorporation, and certifies and acknowledges that he made and executed said certificate for the use and purposes therein expressed.

WITNESS my hand and official seal this 3rd day of MARCH, 2000.

  
Notary Public, State of Florida

(SEAL)

My Commission Expires:



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