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**FLORIDA PROFIT/NON PROFIT CORPORATION**

**Avion Park Association, Inc.**

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ARTICLES OF INCORPORATION  
OF  
AVION PARK ASSOCIATION, INC.,  
A FLORIDA NONPROFIT CORPORATION

2007 JUL 12 P 1:26

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

The undersigned Incorporator (as defined below), a resident of Florida, and of full age, files with the Secretary of State of the State of Florida these Articles of Incorporation ("Articles") for the purpose of forming a corporation not for profit in accordance with the laws of the State of Florida.

ARTICLE ONE: NAME; PRINCIPAL OFFICE AND ADDRESS

1.1 Name. The name of the corporation is Avion Park Association, Inc. (the "Association"). For convenience, these Articles of Incorporation, as they may be modified and supplemented from time to time, shall be referred to in this instrument as the "Articles," and the Bylaws of Avion Park Association, Inc., as they may be modified and supplemented from time to time, as the "Bylaws." All capitalized terms set forth in the Articles, to the extent not defined in the Articles, shall have the meanings set forth in a) the Declaration of Covenants, Conditions and Restrictions of Avion Park (the "Declaration"), applicable to the property and recorded or to be recorded in the Official Records of Hillsborough County, Florida (the "County"), as the Declaration may be modified and supplemented from time to time, or, if not defined in the Declaration, b) the Bylaws. The Declaration, Articles, and Bylaws are collectively called the "Governing Documents".

1.2 Principal Office and Address. The street address of the principal office of the Association is 402 Washington Street SE, Suite 200, Gainesville, Georgia, 30501, and the mailing address of the Association is 402 Washington Street SE, Suite 200, Gainesville, Georgia, 30501, but the Association may maintain offices and transact business in such places, within or without the State of Florida, as may from time to time be designated by the Association's board of directors (the "Board of Directors").

ARTICLE TWO: DEFINITIONS

When used in these Articles, the following terms shall have the meanings set forth below:

2.1 "Affiliated Person" shall mean (i) John B. McKibbon, III, David J. Hughs, McKibbon Hotel Group, Inc., a Georgia corporation, McKibbon Brothers, Inc., a Georgia corporation, McKibbon Hotel Management, Inc., a Florida corporation, or (ii) any Person (as defined below) in which John B. McKibbon, III, David J. Hughs, McKibbon Hotel Group, Inc., a Georgia corporation, McKibbon Brothers, Inc., a Georgia corporation, McKibbon Hotel Management, Inc., a Florida corporation, individually or in the aggregate, own a majority of the outstanding common stock, partnership or trust interests or other units of ownership, or (iii) any limited partnership or limited liability company in which John B. McKibbon, III, David J. Hughs, McKibbon Hotel Group, Inc., a Georgia corporation, McKibbon Brothers, Inc., a Georgia

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corporation, McKibbon Hotel Management, Inc., a Florida corporation, is a general partner or manager.

2.2 "Board" shall mean the duly elected or appointed Board of Directors of the Association.

### ARTICLE THREE: PURPOSES

3.1 The general purposes for which the Association is organized are as follows:

- (a) Those purposes which are authorized under the Florida Not For Profit Corporation Act, Chapter 617, Florida Statutes, as may be amended from time to time, or any successor statute (the "Not For Profit Corporation Act"), and to do, perform or provide any other acts, services or matters whatsoever that are not in conflict with the Governing Documents and to transact any or all other lawful business not in conflict with the Governing Documents that may be allowed under the Not For Profit Corporation Act.
- (b) To provide for the operation, maintenance, preservation, administration, management and architectural control of the Property described in the Declaration.
- (c) To perform all the functions, duties and obligations contemplated of the Association in the Declaration.
- (d) To operate the Association without profit for the benefit of its Members and Avion Park.

3.2 The Association is not organized for pecuniary profit or financial gain, and no part of the Association's income or profit, if any, is distributable to its Members, Directors, or Officers.

### ARTICLE FOUR: POWERS

4.1 The Association shall have and may exercise all the powers, rights and privileges granted to or conferred upon a corporation not-for-profit under the laws of the State of Florida, without limitation, to do any and all things necessary to carry out the purposes of the Association as those are disclosed in the Governing Documents, including, without limitation, the power to:

- (a) Own and convey property.
- (b) Operate and maintain the surface water management system facilities,

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including all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas.

- (c) Establish rules and regulations ("**Rules and Regulations**").
- (d) Assess Members and enforce assessments.
- (e) Sue and be sued.
- (f) Contract for services to provide for operation and maintenance of the surface water management system facilities if the Association contemplates employing a maintenance company.
- (g) Require all Owners to be Members.
- (h) Take any other action necessary for the purposes for which the Association is organized.

#### ARTICLE FIVE: MEMBERS; VOTING

5.1 "**Member**" shall mean any person or entity meeting the criteria and qualifications necessary to become a member of the Association, as set forth in the Bylaws. Voting rights of Members and Declarant shall be determined in accordance with the terms, criteria and conditions set forth in the Bylaws. The rights, duties, privileges and obligations of each Member of the Association shall be those set forth in the Governing Documents, and all such rights, duties, privileges and obligations shall be exercised in accordance with the terms, provisions, covenants, restrictions and conditions set forth in the Governing Documents.

#### ARTICLE SIX: BOARD OF DIRECTORS

6.1 The affairs of the Association shall be managed and directed by a Board of Directors (the "**Board**" or "**Board of Directors**") which shall include at least three (3) Directors (a "**Director**" or "**Directors**"). Only individuals may serve as Directors. The initial Board shall consist of three (3) Directors, two (2) of which shall be appointed by the Declarant and one (1) to be appointed by the Owner which has fee simple title in a portion of Avion Park more particularly described in **Exhibit "B"**, attached to the Declaration ("**Highwoods Premises**"). Until the Declarant no longer has a right to appoint a majority of the Board, Directors need not be Owners or full time employees of Owners. After such date all Directors must either be Owners or full time employees of Owners.

6.2 The Bylaws shall provide:

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- (a) The manner in which Directors are to be appointed or elected; and
- (b) The manner in which vacancies on the Board are to be filled; and
- (c) The manner in which Directors may be removed from office; and
- (d) The manner in which the Declarant shall have the right to appoint a majority of the Board during the Declarant Control Period; and
- (e) The manner in which the Members' Right to Elect a Director shall arise during the Board Expansion Period of the Declarant Control Period; and
- (f) The manner in which the voting rights of each Member shall be determined.

6.3 The names and addresses of the members of the initial Board who, subject to these Articles and the Bylaws, shall hold office for the first year of the existence of the Association, or until an election is held by the Members for the election of Directors, or until their successors are elected or appointed and have qualified in accordance with the Bylaws, are as follows:

NAME	ADDRESS
David J. Hughs	402 Washington Street SE Suite 200 Gainesville, Georgia, 30501
John B. McKibbin, III	402 Washington Street SE Suite 200 Gainesville, Georgia, 30501
Chase Collier	c/o Highwoods Properties, Inc. 3111 W. Dr. MLK Jr. Blvd. Suite 300 Tampa, Florida 33607

#### ARTICLE SEVEN: OFFICERS

7.1 The officers of the Association ("Officer" or "Officers") shall be a President, a Vice President, a Secretary and a Treasurer, and such other Officer as the Board may from time to time by resolution create, and shall serve at the pleasure of the Board of Directors. One (1) person may concurrently hold two (2) or more offices. Officers shall be elected by a majority vote of the Board in accordance with the procedures set forth in the Bylaws. The Bylaws shall provide the manner in which:

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- (a) The duties of each Officer are to be determined; and
- (b) Officers are to be appointed or elected; and
- (c) Vacancies in any position are to be filled; and
- (d) The manner in which Officers may be removed from office.

7.2 The names of the Officers who, subject to these Articles and the Bylaws, shall hold office for the first year of the existence of the Association, or until an election is held by the Directors for the appointment of other Officers, or until their successors are duly elected and have qualified are:

President	David J. Hughs
Vice President	John B. McKibbon, III
Treasurer	David J. Hughs
Secretary	John B. McKibbon, III

The Board of Directors may appoint other Officers and grant them the duties it deems appropriate. In the event the Board elects to have the affairs of the Association administered by Officers, the Officers shall be elected by the Board of Directors in the manner set forth in the Bylaws and shall serve at the pleasure of the Board of Directors.

#### **ARTICLE EIGHT: INITIAL REGISTERED OFFICE AND AGENT**

8.1 The name of the Association's initial registered agent is W. Lawrence Smith, and the street address of the Association's initial registered office is 101 East Kennedy Boulevard, Suite 3700, Tampa, Florida 33602.

#### **ARTICLE NINE: CORPORATE EXISTENCE**

9.1 The Association shall exist perpetually, unless the Association is terminated pursuant to the provisions of the Declaration. The existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State of Florida, Tallahassee, Florida. In the event the Association is terminated pursuant to the provisions of the Declaration, the control or right of access to the property containing the surface water management system facilities shall be conveyed or dedicated to an appropriate governmental unit or public utility and that if not accepted, then the surface water management system facilities shall be conveyed to a non-profit corporation similar to the Association.

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#### ARTICLE TEN: BYLAWS

10.1 The Board shall adopt Bylaws consistent with these Articles. The Association reserves to the Board the right to modify, amend or rescind the Bylaws from time to time in whole or in part only by a majority vote of the Directors present at any duly called and convened meeting of the Board at which a quorum is present.

10.2 All rights, interests and privileges conferred upon any Member by these Articles or the Bylaws shall be subject to and subordinate to the reservation set forth above in Paragraph 10.1.

#### ARTICLE ELEVEN: AMENDMENT

11.1 The rights, interests and privileges conferred upon any Member by these Articles are subject to the right of the Association to alter, amend or rescind these Articles. These Articles may be altered, amended or rescinded only, and not otherwise, after:

- (a) A majority of the Directors present at a duly called and convened meeting has adopted a resolution approving the proposed alteration, amendment or rescission, if Members other than the Declarant and Affiliated Persons own in fee simple less than ninety percent (90%) of the Property Less Common Areas. Notwithstanding the foregoing, the Members' Right to Elect and Member voting rights shall not be altered, amended or rescinded during the Declarant Control Period unless such alteration, amendment or rescission has been consented to by one hundred percent (100%) of the Members, including Declarant and Affiliated Persons.
- (b) A majority of the Directors present at a duly called and convened meeting has adopted a resolution approving the proposed alteration, amendment or rescission, and the proposed alteration, amendment or rescission is submitted to a vote of the Members and is approved by a majority of the Members present at the duly called and convened meeting at which a Quorum of the Members is present, if the Members other than the Declarant and Affiliated Persons own in fee simple ninety percent (90%) or more of the Property Less Common Areas. A notice of the Members' meeting called to consider the proposed amendment, which may be the annual or a special meaning, shall:
  - (i) Be issued by the Board and such meeting shall be held not less than ten (10) days nor more than sixty (60) days after the notice is delivered to each Member by hand or by mail to each Member's last known address, as it appears upon the records of the Association;

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- (ii) Be deemed delivered as provided in Section 3.06(a) of the Bylaws;
- (iii) State the time, date and place of the meeting and contain the text of the proposed amendment; and
- (iv) Enclose a proxy designation and a written ballot form.

Each Member may cast its votes prior to the meeting or may designate a proxy to cast its votes prior to or at the meeting.

11.2 No amendment to these Articles shall make any changes which would in any way affect any of the rights, privileges, power or options provided in these Articles in favor of, or reserved to, the Declarant or the Owner of the "Highwoods Premises" (as defined in the Declaration), unless the Declarant or the Owner of the Highwoods Premises, respectively, joins in the execution of the amendment, and no amendment shall be made that is in conflict with the Declaration.

11.3 No amendment shall make any changes in the qualifications for membership nor the voting rights of the Members, without approval in writing by all Members and the joinder of all record owners of mortgages upon the Building Sites.

11.4 No amendment shall be made that is in conflict with Florida law or the Declaration unless the Declaration is amended to conform to the same.

11.5 All required approvals or consents of the applicable governmental authorities and agencies and public utilities, if any, shall be obtained prior to any attempted amendment being effective.

11.6 A copy of each amendment shall be filed with the Secretary of State of Florida, and shall be recorded in the Public Records of Hillsborough County, Florida.

## ARTICLE TWELVE: DISSOLUTION

12.1 The Association may not be voluntarily dissolved unless and until the Declaration is terminated. If the Association is dissolved as so permitted, the dissolution shall be in accordance with the following requirements and procedures:

- (a) The Members who own at least eighty five percent (85%) of the total Floor Area of all Buildings on the Property vote in a duly convened meeting of the Association for dissolution of the Association; and
- (b) "Adequate Provision" (described below) is made for the ownership, use, maintenance and upkeep of all Common Areas, including without

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limitation the private streets and utilities, as a first class corporate park and a mechanism is created to perform such maintenance and upkeep and to allocate the costs thereof among the benefited Building Sites; and

- (c) All required approvals or consents of the authorities and agencies and public utilities, if any, are obtained; and
- (d) Declarant consents in writing to dissolution of the Association, if the Declarant or Affiliated Persons own any of the Property Less Common Areas in fee simple; and
- (e) A majority of the Directors execute and record an instrument in the public records of Hillsborough County, Florida which dissolves the Association.

The term "adequate provision" as used in this Section, may include without limitation the following: (i) conveyance of the Common Areas to Owners of the Building Sites, as appurtenances to the Building Sites; (ii) conveyance of the Common Areas to an entity whose purpose is to operate and maintain such Common Areas for the benefit of such Building Sites; (iii) conveyance of the Common Areas to a public or quasi-public agency in accordance with Section 5.01 of the Declaration; or (iv) a combination of the foregoing. In the event the Association is dissolved in accordance with this Section, any leases, subleases, licenses or easements granted by the Association pursuant to Section 5.01 of the Declaration shall remain in full force and effect for the period of time stated in such lease, sublease, license or easement.

12.2 Upon dissolution of the Association, other than as part of a merger or consolidation, the assets of the Association (other than the Common Areas, which assets of the Association upon such dissolution are subject to Section 12.1 above) shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created, or for the general welfare of the residents of the county in which the Property is located. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to similar purposes. In the event of termination, dissolution, or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which would comply with Section 40, Florida Administrative Code, and be approved by the Southwest Florida Water Management District prior to such termination, dissolution, or liquidation.

#### ARTICLE THIRTEEN: INDEMNIFICATION AND INSURANCE

13.1 Every Director and Officer and every Member serving the Association at its request shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees and appellate attorneys' fees, reasonably incurred by or imposed upon him or her in connection with any proceeding or any settlement of any proceeding to which he or she may be a party, or in which he or she may become involved by reason of his or her being or having

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been a Director or Officer, or by reason of his or her serving or having served the Association at its request, whether or not he or she is a Director or Officer or is serving at the time the expenses or liabilities are incurred; provided that, in the event of a settlement before entry of judgment, and also when the person concerned is adjudged guilty of gross negligence or willful misconduct in the performance of his or her duties, the indemnification shall apply only when the Board approves the settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to and not in lieu of any and all other rights to which that person may be entitled.

The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, or committee member against any liability asserted against the person and incurred by the person in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify the person against such liability under the provisions of this Article. Notwithstanding anything in these Articles to the contrary, the indemnification obligation described in this provision shall only be applicable to the extent insurance coverage does not apply or is insufficient. The premiums for such insurance shall be a common expense.

#### ARTICLE FOURTEEN: CONFLICTS


14.1 If there are conflicts between the provisions of Florida law, the Declaration, the Articles, and the Bylaws, the provisions of Florida law, the Declaration, the Articles, and the Bylaws (in that order) shall prevail.

#### ARTICLE FIFTEEN: INCORPORATOR

15.1 The name of the incorporator is K. Tyler Hill (the "Incorporator") and the address of the Incorporator is Hill, Ward & Henderson, P.A., 101 East Kennedy Boulevard, Suite 3700, Tampa, Florida 33602.

IN WITNESS WHEREOF, for the purpose of forming this Association under the laws of the State of Florida, the undersigned has executed these Articles of Incorporation this 12<sup>th</sup> day of July, 2007.

INCORPORATOR:

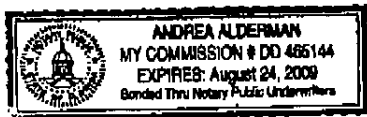
  
K. Tyler Hill

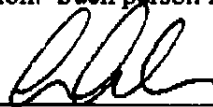
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STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me on July 12, 2007,  
by K. Tyler Hill, as Incorporator of Avion Park Association, Inc., a non-profit Florida  
corporation, on behalf of the non-profit corporation. Such person is personally known to me.



  
Notary Public Andrea Alderman

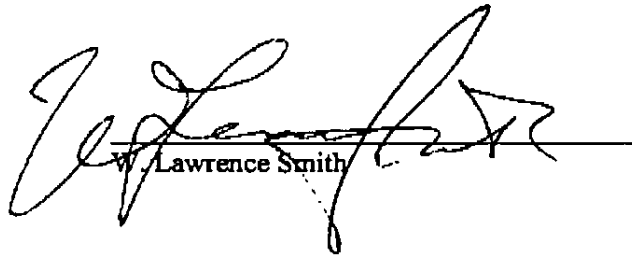
My Commission Expires:

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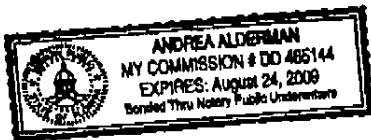
**ACCEPTANCE BY REGISTERED AGENT**


The undersigned, having been named to accept service of process for the Association, accepts appointment as the Association's registered agent and agrees 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.

  
W. Lawrence Smith

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me on July 6,  
2007, by W. Lawrence Smith, who is personally known to me.



  
Notary Public Andrea Alderman  
My Commission Expires:

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