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**FLORIDA PROFIT/NON PROFIT CORPORATION**

**Oakton Commons Commercial Property Owners' Associati**

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**ARTICLES OF INCORPORATION  
of  
OAKTON COMMONS COMMERCIAL PROPERTY  
OWNERS' ASSOCIATION, INC.  
(A Florida Corporation Not for Profit)**

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**ARTICLE I.  
NAME**

The name of this corporation shall be OAKTON COMMONS COMMERCIAL PROPERTY OWNERS' ASSOCIATION, INC. (hereinafter referred to as the "Association").

**ARTICLE II.  
PRINCIPAL ADDRESS**

The mailing and principal office address of the Association shall be 2101 S. Congress Avenue, Delray Beach, Florida 33455, Attn: George T. Elmore. The Association is NOT a condominium association under Chapter 718, Florida Statutes.

**ARTICLE III.  
DEFINITIONS**

All terms that are used but not otherwise defined in these Articles of Incorporation shall have the meanings ascribed to such terms in the SUB-DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR OAKTON COMMONS CPD, and any amendments or supplements thereto, to be recorded in the Public Records of Palm Beach County, Florida (hereinafter referred to as the "Declaration").

**ARTICLE IV.  
PURPOSES**

The purposes for which this Association is organized are to operate and manage the affairs and property of the Association, to perform all acts provided in the Declaration and applicable Florida laws, and administer the interests of the Association and the Owners. The Association is not organized for profit and no part of the net earnings, if any, shall inure to the benefit of any Member or any individual person, firm or corporation.

**ARTICLE V.  
POWERS**

5.1 The Association shall, subject to the limitations and reservations set forth in the Declaration, have all the powers, privileges and duties reasonably necessary to discharge its obligations, including, but not limited to, the following:

- (a) To perform all the duties and obligations of Association set forth in the Declaration and By-Laws, as herein provided.

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(b) To enforce, by legal action or otherwise, the provisions of the Declaration and By-Laws and of all rules, regulations, covenants, restrictions and agreements governing or binding the Association and the Oakton Commons commercial development ("Oakton Commons").

(c) To fix, levy, collect and enforce payment, by any lawful means, of all Assessments pursuant to the terms of the Declaration, these Articles and By-Laws.

(d) To pay all operating costs, including, but not limited to, all licenses, taxes or governmental charges levied or imposed against the property of the Association.

(e) To acquire (by gift, purchase or otherwise), annex, own, hold, improve, build upon, operate, maintain, convey, grant rights and easements, sell, dedicate, lease, transfer or otherwise dispose of real or personal property (including the Commercial Common Area(s)) in connection with the functions of the Association, except as limited by the Declaration.

(f) To borrow money, and to mortgage, pledge or hypothecate any or all of its real or personal property as security for money or debts incurred.

(g) To dedicate, grant, license, lease, concession, create easements upon, sell or transfer all or any part of Oakton Commons to any public agency, entity, authority, utility or other person or entity for such purposes and subject to such conditions as it determines and as provided in the Declaration.

(h) To participate in mergers and consolidations with the other non-profit corporations as it determines and as provided in the Declaration.

(i) To adopt, publish, promulgate or enforce rules, regulations, covenants, restrictions or agreements governing the Association, Oakton Commons, the Commercial Common Area(s) and Parcels as provided in the Declaration, and to effectuate all of the purposes for which the Association is organized.

(j) To have and to exercise any and all powers, rights and privileges which not-for-profit corporation organized under the laws of the State of Florida may now, or hereafter, have or exercise.

(k) To employ personnel and retain independent contractors to contract for management of the Association, Oakton Commons, and the Commercial Common Area(s) as provided in the Declaration and to delegate in such contract all or any part of the powers and duties of the Association.

(l) To contract for services to be provided to, or for the benefit of the Association, Owners, the Commercial Common Area(s), and Oakton Commons as

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provided in the Declaration. The foregoing shall not be deemed to impose any obligation on the Association to provide such services.

(m) To establish committees and delegate certain of its functions to those committees.

(n) The obligation to operate and maintain the Surface Water Management System within Oakton Commons (including, without limitation, all lakes, retention areas, culverts and related appurtenances, if any) in a manner consistent with the applicable South Florida Water Management District ("SFWMD") Permit requirements and applicable SFWMD rules, and to assist in the enforcement of the Declaration which relate to the Surface Water Management System. The Association shall be responsible for assessing and collecting assessments for the operation, maintenance, and if necessary, repairs of the Surface Water Management System within Oakton Commons, except as limited by the Declaration.

#### **ARTICLE VI. MEMBERS**

The Members of the Association shall consist of Developer (for as long as it owns a Parcel in Oakton Commons) and the record property Owners of all of the Parcels in Oakton Commons, provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member. Membership shall be established effective immediately upon becoming an Owner; provided, however, that such new Member's rights shall not become effective until the new Member presents the Association with a recorded copy of the deed of conveyance or other muniment of title conveying the title to the Parcel so conveyed, and such membership shall pass with title to the Parcel in question as an appurtenance thereto with no such membership or rights arising therefrom being transferable in any manner except as an appurtenance to such Parcel. Each and every Member shall be entitled to the benefits of membership and shall be bound to abide by the provisions of these Articles of Incorporation, the Declaration and the Bylaws of the Association, as amended from time to time.

#### **ARTICLE VII. MEMBER VOTING AND ASSESSMENTS**

7.1 Every owner of a Parcel shall, by virtue of such ownership, be a Member of the Association. Membership shall be appurtenant to, and may not be separated from the ownership of a Parcel. Each of the Members of the Association shall have the percentage voting rights determined as described in the Declaration.

7.2 The Bylaws of the Association shall provide for an annual meeting of Members and may make provisions for regular and special meetings of Members other than the annual meeting. Unless a greater or lesser vote is specifically required according

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to these Articles of Incorporation or the Declaration, the affirmative vote of at least a majority of the votes entitled to be cast of the Members present or represented at any meeting of the Members duly called at which a quorum has been attained, shall be binding upon the Members. Prior to Turnover, a quorum shall be established by Developer's presence, in person or by proxy at any meeting. After Turnover, a quorum for the transaction of business at any meeting of Members shall exist if thirty percent (30%) of the total number of votes entitled to be cast by the Members shall be present or represented at the meeting. Fractional voting is prohibited. There shall be no cumulative voting.

7.3 Except to the extent otherwise required by the provisions of the laws of Florida relating to nonprofit corporations, the Declaration, the Bylaws or these Articles of Incorporation, the powers herein or otherwise granted to the Association may be exercised by the Board of Directors, acting through the officers of the Association, without any further consent or action on the part of the Members. Developer shall have the right to appoint or remove any member or members of the Board of Directors and any officer or officers of the Association, without the necessity of a vote at an annual meeting, until such time as the first of the following events shall occur ("Turnover"): (i) the date three months after ninety percent (90%) of the Parcels in all phases of Oakton Commons that will ultimately be operated by the Association have been conveyed to Members other than Developer; or (ii) the surrender by Developer of the authority to appoint and remove directors and officers of the Association by an express amendment to this Declaration executed and recorded by Developer. Each Owner, by acceptance of a deed to or other conveyance of a Parcel, vests in Developer such authority to appoint and remove directors and officers of the Association as provided by this Subsection 7.3.

7.4 After Turnover, the Members shall be entitled to vote on the following matters: (i) any amendment to these Articles of Incorporation, in accordance with Article X of these Articles of Incorporation; (ii) the election of directors, in accordance with Article VIII of these Articles of Incorporation; (iii) the dissolution and liquidation of the Association, in accordance with Article XIV of these Articles of Incorporation; (iv) the amendment of the Declaration, where such amendment requires the consent of the Members pursuant to the terms of the Declaration; (v) the decision to commence or prosecute a judicial or administrative proceeding by the Association pursuant to the terms of the Declaration; and (vi) any other matter the Board of Directors elects to submit to a vote of the Members.

7.5 The Association will obtain funds with which to operate by assessment of its Members in accordance with the provisions of the Declaration.

#### **ARTICLE VIII. BOARD OF DIRECTORS**

8.1 The affairs of the Association shall be managed and conducted by a Board of Directors consisting of not less than three (3) members. The number of directors may be increased or decreased from time to time as the Board of Directors may determine; however, the number of directors shall not be less than three (3). Prior to Turnover,

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Directors need not be Members of the Association and need not be owners in Oakton Commons; thereafter, Directors shall be Members of the Association (except for any Director who is appointed by Developer).

8.2 Prior to Turnover, all Directors shall be appointed by Developer. Prior to Turnover, Developer shall have the right to remove any Director, with or without cause. All Directors may also be removed from office, with or without cause, whether before or after Turnover, by the vote or agreement in writing by a majority of all votes of the Members of the Association at a special meeting of the Members called for that purpose. The procedures for a removal by the Members shall be in accordance with Section 617.0808 of the Florida Statutes. Any Director appointed by Developer shall serve at the pleasure of Developer. Prior to Turnover, all vacancies in the Board of Directors shall be filled by a majority vote of the remaining Directors.

8.3 After Turnover, Directors shall be elected by the Members of the Association at the annual meeting of the membership as provided in the Bylaws of the Association, and the Bylaws may provide for the method of voting in the election of Directors. Election shall be by majority vote of the votes entitled to be cast by the Members at any meeting where a quorum is present or represented. Notwithstanding anything to the contrary herein, at any time that Developer owns at least five percent (5%) of the Parcels in Oakton Commons, Developer shall have the right to appoint one Director. Directors elected by the Members shall hold office until the next succeeding annual meeting of Members, and thereafter until qualified successors are duly elected and have taken office. After Turnover, all vacancies shall be filled by a majority vote of the remaining Directors; provided, however, that if the Director appointed by Developer is removed or resigns from office, Developer shall have the right to fill the vacancy created by the removal or resignation of such Director if Developer has the right to appoint one Director at such time.

#### **ARTICLE IX. CORPORATE EXISTENCE**

The Association shall have perpetual existence.

#### **ARTICLE X. LIMITATIONS**

10.1 No amendment may be made to these Articles which shall in any manner reduce, amend, affect or modify the terms, conditions, provisions, rights and obligations set forth in the Declaration.

10.2 There shall be no amendment to these Articles which shall abridge, reduce, amend, effect or modify the rights of the Developer.

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10.3 These Articles shall not be amended in a manner that conflicts with the Bylaws.

**ARTICLE XI.  
AMENDMENT TO ARTICLES OF INCORPORATION**

These Articles of Incorporation may be amended in the following manner:

11.1 Prior to Turnover, these Articles of Incorporation may be amended by a majority vote of the Board of Directors. No amendment of these Articles of Incorporation prior to Turnover shall require the execution of any Owner or the owner of any liens on any affected Parcel.

11.2 After Turnover, these Articles of Incorporation shall be amended in the following manner:

(a) The Board of Directors, by majority vote, shall adopt a resolution setting forth the proposed Amendment and direct that it be submitted to vote at a meeting of the Members.

(b) Notice of the subject matter of the proposed Amendment shall be included in the notice of any meeting (special or annual) at which such proposed Amendment is to be considered by the Members. Such notice shall set out in full the proposed amended article, section, subsection or paragraph of a subsection.

(c) Such proposed Amendment shall be submitted to and approved by the Members at such meeting. Any number of Amendments may be submitted to the Members and voted upon at one meeting. The proposed Amendment shall be adopted upon receiving the affirmative vote of at least two-thirds (2/3) of the votes entitled to be cast by the Members present or represented at such meeting at which a quorum has been attained.

(d) An amendment to these Articles of Incorporation may be made without a Members' meeting, without prior notice and without a vote of the Members if the action is taken by a written action of the Members entitled to vote having not less than the minimum number of votes necessary to authorize such action at a meeting at which all Members entitled to vote on such action were present.

(e) Notwithstanding anything contained herein to the contrary, so long as Developer owns at least one (1) Parcel in Oakton Commons, no amendment to these Articles of Incorporation affecting the rights or privileges of Developer or its successors or assigns shall be effective without the prior written consent of Developer (or its successors or assigns, as the case may be).

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**ARTICLE XII.  
INCORPORATOR**

The name of the Incorporator of this corporation is George T. Elmore, whose mailing address is 2101 S. Congress Avenue, Delray Beach, FL 33455.

**ARTICLE XIII.  
INDEMNIFICATION OF OFFICERS AND DIRECTORS**

Provided the person proposed to be indemnified satisfies the requisite standard of conduct for permissive indemnification by a corporation not for profit as set forth in the applicable provisions of the Florida Not For Profit Corporation Act, as the same may be amended from time to time, the Association shall indemnify its Officers and Directors, and may indemnify its employees and agents, to the fullest extent permitted by the provisions of such law, as the same may be amended and supplemented, from and against any and all of the expenses or liabilities incurred in defending a civil, criminal, administrative or investigative action, suit or proceeding (other than in an action, suit or proceeding brought by the Association upon authorization of the Board of Directors and Members) or other matters referred to in or covered by such provisions, including advancement of expenses prior to the final disposition of such proceedings and amounts paid in settlement of such proceedings, both as to actions in their official capacities and as to actions in any other capacity while an Officer, Director, employee or other agent. Expenses (including attorneys' fees) incurred by an Officer or Director in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such Director or Officer to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Association as authorized in this Article. Such expenses (including attorneys' fees) incurred by other employees and agent shall also be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate. The indemnification and advancement of expenses provided for herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of Members or Directors or otherwise, both as to actions in their official capacity and as to actions in another capacity while holding such office. Such indemnification shall continue as to a person who has ceased to be a Director, Officer, employee or agent, and shall inure to the benefit of the heirs and personal and other legal representatives of such a person. Except as otherwise provided above, an adjudication of liability shall not affect the right to indemnification for those indemnified. This Article shall apply only to persons for whom the Association is authorized to provide indemnification under applicable law.

**ARTICLE XIV.  
TRANSACTIONS IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED**

14.1 No contact or transaction between the Association and one; (1) or more of its Directors or Officers or Developer, or between the Association and any other corporation, partnership; association, or other organization in which one (1) or more of its



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Officers or Directors are officers, directors or employees or otherwise interested shall be invalid, void or voidable solely for this reason, or solely because the Officer or Director is present at, or participates in, meetings of the Board thereof which authorized the contract or transaction, or solely because said Officers' or Directors' votes are counted for such purpose. No Director or Officer of the Association shall incur liability by reason of the fact that such Director or officer may be interested in any such contract or transaction. Interested Directors shall disclose the general nature of their interest and may be counted in determining the presence of a quorum at a meeting of the Board which authorized the contract or transaction.

**ARTICLE XV.**  
**DISSOLUTION OF THE ASSOCIATION**

15.1 Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner and order:

- (a) Real property contributed to the Association without the receipt of other than nominal consideration by Developer (or its successors in interest) shall be returned to Developer (whether or not a Member at the time of such dissolution) unless it refuses to accept the conveyance (in whole or in part);
- (b) Dedication to applicable municipal or other governmental authority of such property (whether real, personal or mixed) as determined by the Board of Directors of the Association to be appropriate for dedication and which the authority is willing to accept; and
- (c) The remaining assets shall be distributed among the Members, as tenants in common, each Member's share of the assets to be determined in accordance with his or her voting rights.

15.2 Prior to Turnover, the dissolution may be authorized by the Board of Directors, by a majority vote of the Directors then in office. After Turnover, the Board of Directors must adopt a resolution recommending that the Association be dissolved and directing that the question of such dissolution be submitted to a vote at a meeting of the Members entitled to vote thereon (unless the Board of Directors determines that because of a conflict of interest or other substantial reason it should not make any recommendation). Written notice stating the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the Association must be given to each Member entitled to vote at such meeting in accordance with the terms of these Articles of Incorporation. A resolution to dissolve the Association shall be adopted by receiving at least two thirds (2/3) of the votes that Members present or represented at such meeting are entitled to cast.

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**ARTICLE XVI.  
DECLARATION**

In the event of any conflict between the provisions of these Articles of Incorporation and the provisions of the Declaration, the provisions of the Declaration shall prevail.

**ARTICLE XVII.  
DESIGNATION OF REGISTERED AGENT**

George T. Elmore is hereby designated as the Association's Registered Agent for service of process within the State of Florida, and his street address is 2101 S. Congress Avenue, Delray Beach, FL 33455.

[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, the undersigned corporation has executed these Articles of Incorporation this ~~14th~~ day of April, 2009.

OAKTON COMMONS COMMERCIAL  
PROPERTY OWNERS' ASSOCIATION,  
INC.

By:

  
George T. Elmore,  
Incorporator

CONSENT OF REGISTERED AGENT

George T. Elmore, whose street address is 2101 S. Congress Avenue, Delray Beach, FL 33455, hereby consents to his designation as Registered Agent in the foregoing Articles of Incorporation, and states that he is familiar with, and accepts, the obligations of that position as provided for in Section 617.0501, Florida Statutes.

  
George T. Elmore

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