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COVER LETTER

TO: Amendment Section
Division of Corporations

NAME OF CORPORATION: The Preserve at Misty Creek Homeowners Association, Inc.

DOCUMENT NUMBER: N14148

The enclosed *Articles of Amendment* and fee are submitted for filing.

Please return all correspondence concerning this matter to the following:

Cheryl Drechsler

(Name of Contact Person)

The Preserve at Misty Creek Homeowners Association, Inc.

(Firm/ Company)

8789 Misty Creek Blvd.

(Address)

Sarasota, FL 34241

(City/ State and Zip Code)

For further information concerning this matter, please call:

Cheryl Dreschler

(Name of Contact Person)

at (941) 922-6691

(Area Code & Daytime Telephone Number)

Enclosed is a check for the following amount:

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Mailing Address

Amendment Section
Division of Corporations
P.O. Box 6327
Tallahassee, FL 32314

Street Address

Amendment Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

This Instrument Prepared By:
The Preserve at Misty Creek
8789 Misty Creek Blvd.
Sarasota, FL 34241

**AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF
THE PRESERVE AT MISTY CREEK HOMEOWNERS ASSOCIATION, INC.
DOCUMENT NUMBER OF CORPORATION: #N14148**

Pursuant to provisions of section 617.1007, Florida Statutes, the undersigned Florida nonprofit corporation amends and restates its articles of incorporation as follows:

ARTICLE I

NAME OF CORPORATION

The name of this corporation shall be:

THE PRESERVE AT MISTY CREEK HOMEOWNERS ASSOCIATION, INC.
hereinafter in these Articles referred to as the "Association".

ARTICLE II

PURPOSES

The general nature, objects and purposes of the Association are:

- A. To promote the health, safety and social welfare of the owners of all lots located within "The Preserve at Misty Creek" (referred to herein as "Misty Creek") that are, or hereafter may be, subject to the terms of the "Declaration of Restrictions for the Preserve at Misty Creek" to be recorded in the Public Records of Sarasota County, Florida.
- B. To maintain all neighborhood common areas for which the obligation to maintain and repair has been delegated to the Association.
- C. To furnish or otherwise provide for private security, fire protection, street lighting, and such other services as may be deemed necessary or desirable by the Board of Directors of the Association and to acquire such capital improvements and equipment as may be related thereto.
- D. To provide, purchase, acquire, replace, improve, maintain and repair such improvements to the neighborhood common areas, including, without limitation, buildings, structures, streets, sidewalks, street lights, landscaping, equipment, furniture and furnishings, both real and personal, as the Board of Directors of the Association, in its discretion, determines to be necessary or desirable for the promotion of the health, safety, and social welfare of the members of the Association.
- E. To carry out all of the duties and obligations assigned to it as a neighborhood property owners association under the terms of the Declaration of Restrictions for Lots in Misty Creek.
- F. To operate without profit and for the sole and exclusive benefit of its members.

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ARTICLE III
GENERAL POWERS

The general powers that the Association shall have are as follows:

- A. To purchase, accept, lease, or otherwise acquire title to, and to hold, mortgage, rent, sell or otherwise dispose of, any and all real or personal property related to the purposes or activities of the Association; to make, enter into, perform, and carry out contracts of every kind and nature with any person, firm, corporation, or association; and to do any and all other acts necessary or expedient for carrying on any and all of the activities of the Association and pursuing any and all of the objects and purposes set forth in these Articles of Incorporation and not forbidden by the laws of the State of Florida.
- B. To establish a budget and to fix assessments to be levied against all lots which are subject to assessment pursuant to the aforesaid Declaration of Restrictions for the purpose of defraying the expenses and costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, including a reasonable contingency fund for the ensuing year and a reasonable annual reserve for anticipated major capital repairs, maintenance, improvements, and replacements.
- C. To place liens against any lot subject to assessment for delinquent and unpaid assessments or charges and to bring suit for the foreclosure of such liens or to otherwise enforce the collection of such assessments and charges for the purpose of obtaining revenue in order to carry out the purposes and objectives of the Association.
- D. To hold funds solely and exclusively for the benefit of the members of the Association for the purposes set forth in these Articles of Incorporation.
- E. To adopt, promulgate, and enforce rules, regulations, bylaws, covenants, restrictions, and agreements in order to effectuate the purposes for which the Association is organized.
- F. To delegate such of the powers of the Association as may be deemed to be in the Association's best interest by the Board of Directors except that an affirmative vote of two-thirds of the members is required to employ and delegate powers to a professional management company.
- G. To charge recipients of services rendered by the Association and users of property of the Association where such is deemed appropriate by the Board of Directors.
- H. To pay all taxes and other charges or assessments, if any, levied against property owned, leased, or used by the Association.
- I. To enforce by any and all lawful means the provisions of these Articles of Incorporation, the Bylaws of the Association which may be hereafter adopted, and the terms and provision of the aforesaid Declaration of Restrictions.
- J. In general, to have all powers which may be conferred upon a corporation not for profit by the laws of the State of Florida, except as prohibited herein.

ARTICLE IV

ASSETS HELD IN TRUST

All funds and title of all properties acquired by the Association and the proceeds thereof shall be held in trust (in a general fiduciary sense) for the members, in accordance with the provisions of the Declaration of Restrictions, these Articles and the Bylaws of the Association.

ARTICLE V

MEMBERS

The members of this Association shall consist of all owners of lots that are made subject to the provisions of said Declaration of Restrictions. Owners of such lots shall automatically become members upon acquisition of the fee simple title to their respective lots.

The membership of any member in the Association shall automatically terminate upon conveyance or other divestment of title to such member's lot, except that nothing herein contained shall be construed as terminating the membership of any member who may own two or more lots so long as such member owns at least one lot.

The interest of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to the lot which is the basis of his membership in the Association.

The Secretary of the Association shall maintain a list of the members of the Association. Whenever any person or entity becomes entitled to membership in the Association, it shall become such party's duty and obligation to so inform the Secretary in writing, giving his name, address, lot number and a copy of the recorded document of conveyance, provided, however, that any notice given to or vote accepted from the prior owner of such lot before receipt of a copy of the recorded document of conveyance showing change of ownership shall be deemed to be properly given or received. The Secretary may, but shall not be required to, search the Public Records of Sarasota County or make other inquiry to determine the status and correctness of the list of members of the Association maintained by him and shall be entitled to rely upon the Association's records until notified in writing of any change in ownership.

ARTICLE VI

VOTING

Subject to the restrictions and limitations hereinafter set forth, each member shall be entitled to one vote for each lot in which he holds a fee simple ownership. When more than one person holds such interest in any one lot, all such persons shall be members and the vote attributable to such lot may be cast by any of such joint owners. In the event more than one of joint owners attempts to cast the vote to which their lot is entitled, said vote shall be apportioned equally among such of the joint owners as cast the vote. Except where otherwise required by law or by the provisions of said Declaration of Restrictions, or these Articles, the affirmative vote of a majority of members represented at any

meeting of the members duly called and at which a quorum is present shall be binding upon the members.

ARTICLE VII

BOARD OF DIRECTORS

- A. The affairs of the Association shall be managed by a Board of Directors consisting initially of three (3) Directors. The number of Directors comprising succeeding Boards of Directors shall be as provided from time to time in the Bylaws of the Association, but in no event shall there be less than three (3) or more than nine (9) Directors. The Directors must be members of the Association.
- B. At the annual meeting, the Directors shall be elected by plurality vote.
- C. All elected Directors, whether appointed or elected, shall serve for terms of three (3) year in accordance with the provisions of the Bylaws. Directors' terms shall be staggered with approximately one-third (1/3) of the Directors being elected at each annual meeting. Any elected Director may be removed from office with or without cause by majority vote of the members.

ARTICLE VIII

OFFICERS

- A. The officers of the Association, to be elected by the Board of Directors, shall be a President, a Vice-President, a Secretary, a Treasurer, and such other officers as the Board shall deem appropriate from time to time. All officers shall be elected from among the membership of the Board of Directors. The same person may hold two or more offices, provided, however, that the office of President and Secretary shall not be held by the same person. The affairs of the Association shall be administered by such officers under the direction of the Board of Directors. Officers shall be elected for a term of one (1) year in accordance with the procedure set forth in the Bylaws.

ARTICLE IX

CORPORATE EXISTENCE

The Association shall have perpetual existence.

ARTICLE X

BYLAWS

The Bylaws may be altered, amended or rescinded in the manner provided by such Bylaws.

ARTICLE XI

AMENDMENTS TO ARTICLES OF INCORPORATION

These Articles may be altered, amended or repealed upon the affirmative vote of the members holding at least two-third (2/3) of the voting rights. Amendments may be

proposed by resolution of the Board, or by twenty percent (20%) of the voting interests. Provided, that no amendment shall make any change in the qualification for membership nor the voting rights of members without the approval of all members. No amendment shall be made which is in conflict with the Declaration of Restrictions. An amendment which is duly adopted pursuant to this Article shall be effective upon filing with the Florida Department of State and subsequently recording a certified copy thereof in the Public Records, with formalities required for the recording of an amendment to the Bylaws.

ARTICLE XII

INDEMNIFICATION OF OFFICERS AND DIRECTORS

To the extent permitted by law, the Association shall indemnify and hold harmless every Director and every Officer of the Association 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 made a party because of his being or having been, a Director or Officer of the Association. The foregoing right to indemnification shall not be available if a judgment or other final adjudication establishes that the actions or omissions to act of such Director or Officer were material to the cause adjudicated and involved one or more of the following:

- a) willful misconduct or conscious disregard for the best interests of the Association; or
- 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; or
- c) an act or omission which was committed in bad faith or with malicious purpose, or any manner exhibiting wanton or willful disregard for human rights, safety or property, in an action by or in the right of someone other than the Association or a Member; or
- d) a transaction from which the Director or Officer derived an improper personal benefit.

In the event of a settlement, the right to indemnification shall not apply unless a majority of the disinterested Directors approves the settlement as being in the best interests of the Association. The foregoing right to indemnification shall be in addition to, and not exclusive of, all rights to which a Director or Officer may be entitled.

ARTICLE XIII

DISSOLUTION OF THE ASSOCIATION

- A. Upon expiration of the term of the aforementioned Declaration of Restrictions, the Association may be dissolved upon resolution to that effect being approved by two-thirds (2/3) of the members, and, if a judicial decree is necessary at the time of dissolution, then after receipt of an appropriate decree as provided for in Section 617.05, Florida Statutes (1985), or any statute of similar import then in effect.

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

- 1) Any property determined by the Board of Directors of the Association to be appropriate for dedication to any applicable municipal or other government authority may be dedicated to such authority provided the authority is willing to accept the dedication.
- 2) All remaining assets, or the proceeds from the sale of such assets, shall be apportioned among the lots subject to assessment in equal shares, and the share of each shall be distributed to the then owners thereof.

Article XIV

HISTORICAL NOTES

The Preserve at Misty Creek Homeowners Association, Inc. (A Corporation Not for Profit) was initially incorporated on March 19, 1986, to carry out all the duties and obligations assigned to it as a neighborhood property owners association in accordance with the provisions of the laws of the State of Florida.

The names and addresses of the persons constituting the first Board of Directors were:

Robert Skalitzy, 1229 N. Gulfstream Ave., Sarasota, FL 33577
Eugene A. Kaiser, 1229 N. Gulfstream Ave., Sarasota, FL 33577
Thomas A. Rich, 1229 N. Gulfstream Ave., Sarasota, FL 33577

The names of the officers who managed the affairs of the Association until the first annual meeting of the Board of Directors held in the year 1988 and until their successors were duly elected and qualified, were:

President	Robert Skalitzy
Vice-President	Eugene A. Kaiser
Secretary	Eugene A. Kaiser
Treasurer	Thomas A. Rich

The initial registered office of the corporation was at 1229 N. Gulfstream Ave., Sarasota, Florida, 33577, and the initial registered agent at such address was Robert Skalitzy.

The names and street addresses of the subscribers of the initial Articles were:

Robert Skalitzy, 1229 N. Gulfstream Ave., Sarasota, FL 33577
Eugene A. Kaiser, 1229 N. Gulfstream Ave., Sarasota, FL 33577
Thomas A. Rich, 1229 N. Gulfstream Ave., Sarasota, FL 33577

The date of adoption of the amendments and restatement was the 4th day of March, 2008.

Adoption of the Amendments:

Pursuant to Article X of the Articles of Incorporation, the document may be amended by the Board of Directors without member approval. Thus, there are no members entitled to vote on the above-referenced amendment. The amendments were adopted by the Board of Directors.

Witnesses to President's signature

Cheryl E. Drechsler
Print Name: Cheryl E. Drechsler

Cheryl E. Drechsler
Print Name: Cheryl E. Drechsler

THE PRESERVE AT MISTY CREEK
HOMEOWNERS ASSOCIATION, INC.,

By: Judith E. C. Patton
Print Name: JUDITH E.C. PATTON
As Its President

Attest: Terri Baker
Print Name: TERRI BAKER
As Its Secretary