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1. **Vanderbilt Commons Owners' Association, Inc.**

(CORPORATE NAME AND DOCUMENT #)

2. \_\_\_\_\_  
(CORPORATE NAME AND DOCUMENT #)

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**ARTICLES OF INCORPORATION  
OF  
VANDERBILT COMMONS OWNERS' ASSOCIATION, INC.**

The undersigned hereby executes and submits these Articles of Incorporation as of the day and year set forth hereinbelow for the purpose of forming the corporation pursuant to Chapter 617, Florida Statutes.

**ARTICLE I  
Corporate Name**

1.1 Name. The name of the corporation is Vanderbilt Commons Owners' Association, Inc., hereinafter called the "Association". For convenience, these Articles of Incorporation shall be referred to herein as the "Articles", and the By-Laws of the Association as the "By-Laws".

**ARTICLE II  
Address**

2.1 Address. The initial mailing address of the Association shall be 2950 9th Street North, Naples, Florida 34103. The principal office of the Association shall be located at the mailing address or at such other place as may be subsequently designated by the Board of Directors of the Association from time to time.

**ARTICLE III  
Purpose and Powers of the Association**

3.1 Objects and Purposes. The objects and purposes of the Association are those objects and purposes as are authorized by the Declaration of Covenants, Conditions and Restrictions for Vanderbilt Commons recorded (or to be recorded) in the Public Records of Collier County, Florida, as hereafter amended and/or supplemented from time to time (the "Declaration"). The further objects and purposes of the Association are to preserve the values and amenities within Vanderbilt Commons, as the same are defined in the Declaration, and to maintain the Common Area and any portions of the Property as set forth in the Declaration for the benefit of the Members of the Association. Defined terms used but not otherwise defined herein shall have the meanings given them in the Declaration.

3.2 Not for Profit. 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 individual person, firm or corporation. Upon dissolution, all assets of the Association shall be transferred only to another not-for-profit corporation or as otherwise authorized by the Florida not-for-profit corporation statute.

3.3 Powers. The powers of the Association shall include and be governed by the following:

(a) General. The Association shall have all of the common law and statutory powers of a corporation not-for-profit under the Laws of Florida unless further restricted by the provisions of these Articles, the Declaration, or the By-Laws; and

(b) Enumeration. The Association shall have the powers and duties set forth in subsection (a) above, except as limited by these Articles, the By-Laws and the Declaration, and all of the powers and duties reasonably necessary to operate the Association pursuant to the Declaration, and as more particularly described in the By-Laws, as they may be amended from time to time, including, but not limited to, the following:

(i) To make and collect Assessments and other charges against Members and Owners, and to use the proceeds thereof in the exercise of its powers and duties;

(ii) To buy, own, operate, lease and sell, both real and personal property;

(iii) To maintain, repair, replace, reconstruct, add to and operate the Common Area, and portions of the Property as set forth in the Declaration;

(iv) To purchase insurance upon the Common Area and insurance for the protection of the Association, its officers, directors and Members;

(v) To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Common Area and Lots and for the health, comfort, safety and welfare of the Members as provided in the Declaration;

(vi) To enforce by legal means the provisions of the Declaration, these Articles, the By-Laws, and the Rules and Regulations for the use of the Common Area and the Lots;

(vii) To contract for the management and maintenance of the Common Area and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Area with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Declaration, By-Laws and these Articles, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association;

(viii) To employ personnel to perform the services required for proper operation, maintenance, conservation, and use of the Common Area;

(ix) To borrow money, and with the unanimous consent of the members entitled to vote, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(x) To dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members;

(xi) To maintain and operate any roads and streets, sewer and/or potable water facilities and the surface/stormwater management system and related appurtenances, including, but not limited to, all lakes, retention areas, swales, culverts and drainage structures in accordance with any permit issued by the South Florida Water Management District, or its successor;

(xii) To sue and be sued; and

(xiii) To contract for services necessary to operate and maintain the surface/stormwater management system and other property (tracts and easements) dedicated to the Association, and any corresponding infrastructure.

All funds and the title to all property acquired by the Association shall be held for the benefit of the Members in accordance with the provisions of the Declaration, these Articles, and the By-Laws.

#### **ARTICLE IV Membership/Voting Rights**

4.1 Qualification. The qualification of Members, the manner of their admission to and the termination of membership, and voting by members shall be as follows:

(a) Every Owner of a Lot shall be a Member of the Association. Each Member shall be entitled to such votes and have such a voting interest as provided and allocated pursuant to these Articles and Section 6.5(a) of the Declaration, as calculated in accordance with the schedule of Gross Area Calculations set forth in Exhibit "D" attached thereto, all as the same may be subsequently amended from time to time. In the event a Lot is subdivided and a Sub-Association is created, the Sub-Association therefor shall be the applicable Member of the Association. Membership in the Association shall not be assignable, except to the successor of the Owner's Lot, as the case may be, and every membership of an Owner or Sub-Association in the Association shall be appurtenant to and inseparable from ownership of the Lot. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of the Lot to which such membership is appurtenant, and then only to the purchaser of such Lot, and, upon the sale of a Lot, the seller's membership in the Association shall terminate as to such Lot. Any purported transfer of membership in the Association to any transferee not permitted under this Article shall be null and void. Recordation of a deed to a Lot shall be the act which transfers membership in the Association. This prohibition shall not otherwise restrict an Owner from delegating its voting rights or granting proxies.

(b) Except as otherwise provided in this Declaration, the Articles, the By-Laws or applicable Laws, all matters requiring the approval of the Members shall be deemed approved by one of the following methods: (i) if approved unanimously by the voting interest of the Members of the Association in writing; or (ii) if approved by a Majority of the Members at any duly called regular or special meeting of the Members at which a quorum is present, either in person or by proxy.

(c) For purposes of this Article, if a Lot consists of a Sub-Association, then the votes allocated to such Lot shall be exercised by a voting representative appointed annually by the applicable Sub-Association ("Voting Representative"), on behalf of such Sub-Association, and in accordance with the governing documents and instructions of the board of directors of such Sub-Association. Upon the casting of votes by the Voting Representative of a Sub-Association, it will thereafter be conclusively presumed for all purposes that he or she acted with the authority and consent of the board of directors of such Sub-Association.

(d) 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 owned by such member. The funds and assets of the Association shall be expended, held or used only for the benefit of the membership and for the purposes authorized herein, in the Declaration, and in the By-Laws.

## **ARTICLE V**

### **Liability for Debts**

5.1 Debts. Neither the Members nor the officers or the directors of the Association shall be liable for the debts of the Association.

## **ARTICLE VI**

### **Board of Directors**

6.1 Number of Directors/Initial Directors. The affairs of this Association shall be managed and governed by a Board of Directors consisting of at least three (3) Directors, who need not be Members of the Association. The number of Directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successor are:

<u>Name</u>	<u>Address</u>
Ralph R. Cioffi, Jr.	2950 9th Street North, Naples, Florida 34103
Dan Smith	2950 9th Street North, Naples, Florida 34103
Fred Benoit	2950 9th Street North, Naples, Florida 34103

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6.2 Election/Removal. Directors of the Association shall be elected by the Members in the manner determined by the By-Laws. Directors may be removed and vacancies of the Board of Directors shall be filled in the manner provided by the By-Laws.

## **ARTICLE VII**

### **Officers**

7.1 Officers. The affairs of the Association shall be administered by a President, a Vice President, a Secretary and a Treasurer and such other Officers as may be designated from time to time by the Directors. The Officers shall be elected or designated by the Board of Directors at its first meeting following the annual meeting of the Members of the Association. The names and addresses of the Officers who shall serve until their successors are elected or designated by the Board of Directors are as follows:

President	Ralph R. Cioffi, Jr.
Vice President	George Vukobratovich
Secretary	Fred Benoit
Treasurer	Dan Smith

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## **ARTICLE VIII**

### **Indemnification**

8.1 Indemnity. The Association shall indemnify any officer, director, or committee member who was or is a party or is threatened to be made a party to any threatened, pending, or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director, officer, or committee member of the Association, against expenses (including attorney's fees and appellate attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, unless: (i) a court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued by the proposed indemnitee, that he did not act in good faith or in a manner he reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe his conduct was unlawful; and (ii) such court also determines specifically that indemnification should be denied. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. It is the intent of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to its officers, directors, and committee members as permitted by Florida law.

8.2 Expenses. To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 8.1 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees and appellate attorney's fees) actually and reasonably incurred by him in connection therewith. Assessments may be made by the Association to cover any expenses or other amounts to be paid by the Association in connection with the indemnification provided herein.

8.3 Approval. Any indemnification under Section 8.1 above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a reasonable determination that indemnification of the director, officer, employee, committee member or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 8.1 above. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (c) by a majority of the Members.

8.4 Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee, committee member or agent to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association as authorized in this Article.

8.5 Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of Members or otherwise, both as to action in his official capacity while holding such office or position, or otherwise, and shall continue as to a person who has ceased to be director, officer, employee, committee member or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

8.6 Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, committee member or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, committee member or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

8.7 Amendment. Anything to the contrary herein notwithstanding, the provisions of this Article may not be amended without the prior written consent of all persons whose interest would be adversely affected by such amendment.



8.8 Definitions. Unless the context otherwise requires, all terms used in these Articles shall have the same meaning as are attributed to them in the Master Declaration and the By-Laws.

#### **ARTICLE IX By-Laws**

9.1 By-Laws. The By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded as provided therein; provided, however, that at no time shall the By-Laws conflict with these Articles of Incorporation or the Declaration.

#### **ARTICLE X Dissolution**

10.1 Dissolution. The Association may be dissolved upon written assent signed by unanimous consent of the Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association (including, without limitation, the surface water management system) shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or organization to be devoted to such similar purposes.

#### **ARTICLE XI Term**

11.1 Term. The term of the Association shall be perpetual.

#### **ARTICLE XII Amendments**

12.1 Amendment Process. Amendments to these Articles shall be proposed and adopted in the following manner:

(a) Proposal. Amendments to these Articles may be proposed by a majority of the Board of Directors or upon petition by a Member, in writing, signed by them.

(b) Procedure. Upon any amendment or amendments to these Articles being proposed by said Board or Member, such proposed amendment or amendments shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can be given.

(c) Vote Required. Except as otherwise required for by Florida law, these Articles of Incorporation may be amended by the unanimous vote of the voting interests of the Members at any annual or special meeting, or by the unanimous approval in writing of the voting interests of the Members without a meeting. Notice of any proposed amendment shall be given

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to the Members of the Association and that the notice contains a fair statement of the proposed amendment.

12.2 Effective Date. An amendment shall become effective upon filing with the Secretary of State and recording a certified copy in the Public Records of Collier County, Florida.

12.3 Limit on Amendments. No amendment shall make any changes in the qualifications for membership, or in the voting rights of Members, without approval in writing by all Members.

#### **ARTICLE XIII Incorporator**

The name and address of the incorporator of these Articles of Incorporation is as follows:

Kevin A. Denti, Esquire  
2180 Immokalee Road – Suite #316  
Naples, Florida 34110

#### **ARTICLE XIV Registered Office and Agent**

The street address of the initial registered office of this corporation is 2180 Immokalee Road – Suite #316, Naples, Florida 34110, and the name of the initial registered agent of this corporation is Kevin A. Denti, Esquire of Kevin A. Denti, P.A.

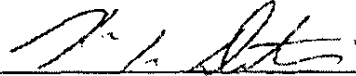
IN WITNESS WHEREOF the subscriber, being the undersigned person, named as incorporator, has hereunto set his/her hand and seal, this 28<sup>th</sup> day of July, 2015.

  
\_\_\_\_\_  
Kevin A. Denti, Esquire, Incorporator

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**ACCEPTANCE OF DESIGNATION AS REGISTERED AGENT**

Having been named as registered agent to accept service of process for the above stated corporation, at the place designated in the certificate, I am familiar with and accept the appointment as registered agent and agree to act in this capacity.



Kevin A. Denti, Esquire, Registered Agent

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