

# N16000010821

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*Morgan*

Dated: 4/25/2019

**COVER LETTER**

**TO:** Amendment Section  
Division of Corporations

**SUBJECT:** Mersereau Family Charitable Foundation, Inc.

(Name of Surviving Corporation)

The enclosed Articles of Merger and fee are submitted for filing.

Please return all correspondence concerning this matter to following:

Cynthia Smading

(Contact Person)

Spencer Fane LLP

(Firm/Company)

2144 E. Republic Rd., Suite B300

(Address)

Springfield, MO 65804

(City/State and Zip Code)

For further information concerning this matter, please call:

Cynthia Smading

(Name of Contact Person)

At (417) 888-1000

(Area Code & Daytime Telephone Number)

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**STREET ADDRESS:**

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

**MAILING ADDRESS:**

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

**ARTICLES OF MERGER**  
(Not for Profit Corporations)

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The following articles of merger are submitted in accordance with the Florida Not For Profit Corporation Act, pursuant to section 617.1105, Florida Statutes.

**First:** The name and jurisdiction of the surviving corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
Mersereau Family Charitable Foundation, Inc., _____	Missouri _____	_____ _____

**Second:** The name and jurisdiction of each merging corporation:

<u>Name</u>	<u>Jurisdiction</u>	<u>Document Number</u> (If known/ applicable)
Mersereau Family Charitable Foundation, Inc. _____	Florida _____	N16000010821 _____
_____ _____	_____ _____	_____ _____
_____ _____	_____ _____	_____ _____
_____ _____	_____ _____	_____ _____

**Third:** The Plan of Merger is attached.

**Fourth:** The merger shall become effective on the date the Articles of Merger are filed with the Florida Department of State

**OR** \_\_\_\_/\_\_\_\_/\_\_\_\_ (Enter a specific date. NOTE: An effective date cannot be prior to the date of filing or more than 90 days after merger file date).

**Note:** If the date inserted in this block does not meet the applicable statutory filing requirements, this date will not be listed as the document's effective date on the Department of State's records.

(Attach additional sheets if necessary)

**Fifth: ADOPTION OF MERGER BY SURVIVING CORPORATION**  
(COMPLETE ONLY ONE SECTION)

**SECTION I**

The plan of merger was adopted by the members of the surviving corporation on \_\_\_\_\_.  
The number of votes cast for the merger was sufficient for approval and the vote for the plan was as follows:  
\_\_\_\_\_ FOR \_\_\_\_\_ AGAINST

**SECTION II**

(CHECK IF APPLICABLE) The plan or merger was adopted by written consent of the members and executed in accordance with section 617.0701, Florida Statutes.

**SECTION III**

There are no members or members entitled to vote on the plan of merger.  
The plan of merger was adopted by the board of directors on \_\_\_\_\_. The number of directors in office was three. The vote for the plan was as follows: three FOR zero AGAINST

**Sixth: ADOPTION OF MERGER BY MERGING CORPORATION(S)**  
(COMPLETE ONLY ONE SECTION)

**SECTION I**

The plan of merger was adopted by the members of the merging corporation(s) on \_\_\_\_\_.  
The number of votes cast for the merger was sufficient for approval and the vote for the plan was as follows: \_\_\_\_\_ FOR \_\_\_\_\_ AGAINST

**SECTION II**

(CHECK IF APPLICABLE) The plan or merger was adopted by written consent of the members and executed in accordance with section 617.0701, Florida Statutes.

**SECTION III**

There are no members or members entitled to vote on the plan of merger.  
The plan of merger was adopted by the board of directors on April 23, 2019. The number of directors in office was three. The vote for the plan was as follows: three FOR zero AGAINST

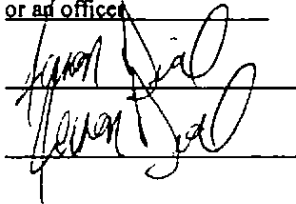
**Seventh: SIGNATURES FOR EACH CORPORATION**

Name of Corporation

Signature of the chairman/  
vice chairman of the board  
or an officer

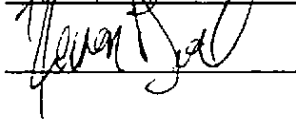
Typed or Printed Name of Individual & Title

Mersereau Family Charitable Foundation,  
*Inc. (MO)*



Dr. Jason Dial , President

Mersereau Family Charitable Foundation,  
*Inc. (FL)*



Dr. Jason Dial , President

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## **AGREEMENT AND PLAN OF MERGER**

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement") is made and entered into this 31<sup>st</sup> day of April, 2019, by and between, MERSEREAU FAMILY CHARITABLE FOUNDATION, INC., a Florida not for profit corporation (herein "Mersereau Florida"), and MERSEREAU FAMILY CHARITABLE FOUNDATION, INC., a Missouri nonprofit corporation (herein "Mersereau Missouri").

### **Recitals**

A. Mersereau Florida is duly organized and existing under the Florida Not For Profit Corporation Act (the "Florida Act").

B. Mersereau Missouri is duly organized and existing under the Missouri Nonprofit Corporation Act (the "Missouri Act").

C. Mersereau Florida and Mersereau Missouri desire to merge Mersereau Florida into Mersereau Missouri, in accordance with the terms and conditions set forth herein, so that Mersereau Missouri will be the "Surviving Corporation."

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Surviving Corporation.** In accordance with the terms and conditions of this Agreement, Mersereau Florida shall be merged with and into Mersereau Missouri (the "Merger") effective as of the Effective Time (as defined in Section 2 below). Mersereau Missouri shall be the Surviving Entity and shall continue its existence as a nonprofit corporation under the Missouri Nonprofit Corporation Act, RSMo. Chapter 355. The name of the Corporation shall continue to be: "The Mersereau Family Charitable Foundation, Inc."
2. **Effective Time.** The Merger shall become effective upon the issuance of Certificates of Merger by the Missouri and Florida Secretaries of State in compliance with both the Missouri Act and the Florida Act. The date and time when the Merger becomes effective are referred to hereinafter as the "Effective Time."
3. **Succession and Assumption.** Immediately as of the Effective Time, by virtue of the Merger and without any action by Mersereau Florida or Mersereau Missouri: (a) Mersereau Missouri shall succeed to all present and future rights, titles, privileges, and powers of Mersereau Florida and Mersereau Missouri, and (b) Mersereau Missouri shall assume all liabilities, duties, and obligations of Mersereau Florida and Mersereau Missouri as they exist immediately prior to the Effective Time.
4. **Articles of Incorporation.** At the Effective Time, the Articles of Incorporation of Mersereau Missouri as in effect immediately prior to the Effective Time shall become the Articles of Incorporation of the Surviving Corporation, until thereafter amended as provided by law.

5. **Bylaws.** At the Effective Time, the Bylaws of Mersereau Missouri as in effect immediately prior to the Effective Time shall become the Bylaws of the Surviving Corporation, until thereafter amended as provided by law.
6. **Officers and Directors.** At the Effective Time, the officers and directors of Mersereau Missouri existing immediately prior to the Effective Time shall become the officers and directors of the Surviving Corporation, each to hold office in accordance with the Articles of Incorporation and Bylaws of the Surviving Corporation.
7. Mersereau Florida hereby represents and warrants to Mersereau Missouri as follows:
  - (a) **Corporate Organization.** Mersereau Florida is a corporation duly organized, validly existing and in good standing under the Florida Act with all requisite corporate power and authority to own, operate and lease any and all of its properties, and to carry on its activities as they are now being conducted.
  - (b) **Membership.** As of the date hereof, Mersereau Florida does not have members.
  - (c) **Authorization.** Mersereau Florida has the necessary corporate power and authority to enter into this Agreement and this Agreement has been duly authorized by its board of directors. This Agreement is a legal, valid, and binding obligation of Mersereau Florida.
  - (d) **No Violation.** Neither the execution and delivery of this Agreement by Mersereau Florida, the performance by Mersereau Florida of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the Articles of Incorporation or Bylaws of Mersereau Florida, (ii) constitute a default under or cause the acceleration of the maturity of any debt or obligation which, individually or in the aggregate with all other such debts and obligations, is material to Mersereau Florida taken as a whole, or (iii) to the best knowledge of Mersereau Florida, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which Mersereau Florida is subject, which would have a material adverse effect on the financial condition or operations of Mersereau Florida taken as a whole.
8. Mersereau Missouri represents and warrants to Mersereau Florida as follows:
  - (a) **Corporate Organization.** Mersereau Missouri is a corporation duly organized, validly existing and in good standing under the Missouri Act with all requisite corporate power and authority to own, operate and lease its properties and to carry on its activities as they are now being conducted.
  - (b) **Membership of Mersereau Missouri.** As of the date hereof, Mersereau Missouri does not have members.
  - (c) **Authorization.** Mersereau Missouri has the necessary corporate power and authority to enter into this Agreement and this Agreement has been duly authorized

by its board of directors. This Agreement is a legal, valid and binding obligation of Mersereau Missouri.

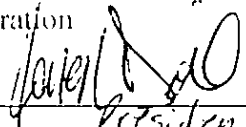
- (d) **No Violation.** Neither the execution and delivery of this Agreement by Mersereau Missouri, the performance by Mersereau Missouri of its obligations hereunder nor the consummation by it of the transactions contemplated hereby will (i) violate any provision of the Articles of Incorporation or Bylaws of Mersereau Missouri, (ii) constitute a default under or cause the acceleration of the maturity of any debt or obligation which, individually or in the aggregate with all other such debts and obligations, is material to Mersereau Missouri taken as a whole, or (iii) to the best knowledge of Mersereau Missouri, violate any statute or law or any judgment, decree, order, regulation or rule of any court or governmental authority to which Mersereau Missouri is subject, which would have a material adverse effect on the financial condition or operations of Mersereau Missouri taken as a whole.
9. **Conduct of Business Prior to the Effective Time.** Each of Mersereau Florida and Mersereau Missouri agrees that prior to the Effective Time, each of its activities shall be conducted only in the ordinary course.
10. **Further Actions.** Subject to the terms and conditions hereof, Mersereau Florida and Mersereau Missouri each agree to use all reasonable efforts to take, or cause to be taken, all action and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement.
11. **Termination.** This Agreement may be terminated and the Merger may be abandoned at any time before the Effective Time at the election of either Mersereau Florida or Mersereau Missouri, by written notice from the party so electing to the other party, if the board of directors of either Mersereau Florida or Mersereau Missouri, in its sole and absolute discretion, deems for any reason that consummation of the Merger is inadvisable.
12. **Effect of Termination.** In the event of the termination of this Agreement by either Mersereau Florida or Mersereau Missouri, as provided above, this Agreement shall be void and of no further effect, and there shall be no liability by reason of this Agreement or the termination thereof on the part of either Mersereau Florida or Mersereau Missouri, or on the part of their respective directors, officers, employees, or agents.
13. **Amendment.** This Agreement may be amended by the parties hereto by action taken by their respective board of directors at any time prior to the Effective Time. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the parties hereto.
14. **Assignment.** No party shall assign this Agreement or any of its rights and obligations hereunder without the prior written consent of the other party.
15. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, legal representatives, successors and permitted assigns.



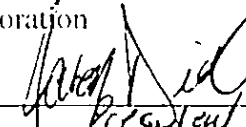
16. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof, superseding any and all prior agreements, understandings, negotiations and discussions. No amendment, alternation, modification or waiver of this Agreement shall be binding unless evidenced by an instrument in writing signed by the parties hereto.
17. **Construction.** The captions and headings of this Agreement are for convenience and reference only, and shall not control or affect the meaning or construction of this Agreement. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.
18. **Choice of Law.** This Agreement shall be construed, governed, and enforced in accordance with the laws of the State of Missouri.
19. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted. The invalidity or unenforceability of any provision of this Agreement to any person or circumstance shall not effect the validity or enforceability of such provision as it may apply to any other persons or circumstances.
20. **Waiver.** The failure in one or more instances of a party to insist upon performance of any of the terms, conditions and covenants set forth in this Agreement, or the failure of a party to exercise any right or privilege conferred by this Agreement, shall not be construed thereafter as waiving their right to insist upon the performance of such terms, conditions and covenants or the right to exercise such rights and privileges, which rights shall continue and remain in full force and effect as if no forbearance had occurred.
21. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original instrument, but all of which together will constitute for all purposes one and the same instrument.

**IN WITNESS WHEREOF,** the parties hereto have executed this Agreement as of the date first above written.

**Mersereau Family Charitable  
Foundation, Inc.,** a Florida not for profit  
corporation

By:   
Its: President

**Mersereau Family Charitable  
Foundation, Inc.,** a Missouri nonprofit  
corporation

By:   
Its: President