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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

03/30/17

COVER LETTER

Department of State
Division of Corporations
P. O. Box 6327
Tallahassee, FL 32314

SUBJECT: Sunset Parcels Condominium Association, Inc.

(PROPOSED CORPORATE NAME – MUST INCLUDE SUFFIX)

Enclosed is an original and one (1) copy of the Articles of Incorporation and a check for :

☒ \$70.00
Filing Fee

☐ \$78.75
Filing Fee &
Certificate of
Status

☐ \$78.75
Filing Fee
& Certified Copy

☐ \$87.50
Filing Fee,
Certified Copy
& Certificate

ADDITIONAL COPY REQUIRED

FROM: Tiffany Garcia

Name (Printed or typed)

138 Simonton Street

Address

Key West, FL 33040

City, State & Zip

(305) 296-7227

Daytime Telephone number

Tiffany@smithhawks.com

E-mail address: (to be used for future annual report notification)

NOTE: Please provide the original and one copy of the articles.

FILED
17 MAR 28 PM 4:08
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

**ARTICLES OF INCORPORATION
OF
SUNSET PARCELS CONDOMINIUM ASSOCIATION, INC.**

The undersigned incorporator, for the purpose of forming a corporation not for profit pursuant to the laws of the State of Florida, hereby adopts the following Articles of Incorporation:

**ARTICLE 1
NAME**

The name of the corporation shall be **SUNSET PARCELS CONDOMINIUM ASSOCIATION, INC.** For convenience, the corporation shall be referred to in this instrument as the "**Association**", these Articles of Incorporation as the "**Articles**", and the By-Laws of the Association as the "**By-Laws**".

**ARTICLE 2
OFFICE**

The principal office and mailing address of the Association shall be 5555 College Road, Key West, FL 33040, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at its principal office or at such other place as may be permitted by Chapter 718, Florida Statutes, as it exists as of the date hereof (the "**Act**").

**ARTICLE 3
PURPOSE**

The purpose for which the Association is organized is to provide an entity pursuant to the Act for the operation of that certain condominium located in Monroe County, Florida, and known as **SUNSET PARCELS, A CONDOMINIUM** (the "**Condominium**").

**ARTICLE 4
DEFINITIONS**

The terms used in these Articles shall have the same definitions and meanings as those set forth in the Declaration of Sunset Parcels, a Condominium ("**Declaration**") to be recorded in the Public Records of Monroe County, Florida, unless herein provided to the contrary, or unless the context otherwise requires.

ARTICLE 5

POWERS

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

- 5.1 General. The Association shall have all of the common-law and statutory powers of a corporation not-for-profit under the Laws of Florida, except as expressly limited or restricted by the terms of these Articles, the Declaration, the By-Laws or the Act.
- 5.2 Enumeration. The Association shall have all of the powers and duties set forth in the Act, except as limited by these Articles, the By-Laws and the Declaration (to the extent that they are not in conflict with the Act), and all of the powers and duties reasonably necessary to operate the Condominium 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:
- (a) To make and collect Assessments and other charges against members as Unit Owners, and to use the proceeds thereof in the exercise of its powers and duties subject to the limitations set forth in the Declaration.
 - (b) To assume all of Developer's and/or its affiliates' responsibilities to the County, and its and/or their governmental and quasi-governmental subdivisions and similar entities of any kind with respect to the Condominium Property (including, without limitation, any and all obligations imposed by any permits or approvals issued by the City and/or County, as same may be amended, modified or interpreted from time to time) and, in either such instance, the Association shall indemnify and hold Developer and its affiliates harmless with respect thereto in the event of the Association's failure to fulfill those responsibilities.
 - (c) To acquire, convey, lease, sell and grant encumbrances on both real and personal property in accordance with the provisions of the Declaration.
 - (d) To maintain, repair, replace, reconstruct, add to and operate the Condominium Property and/or Association Property, and other property acquired or leased by the Association in accordance with the provisions of the Declaration.
 - (e) To purchase insurance upon the Condominium Property and Association Property and insurance for the protection of the Association, its officers, directors and Unit Owners in accordance with the provisions of the Declaration.
 - (f) To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Condominium Property and Association Property and for the health, comfort, safety and welfare of the Unit Owners.

- (g) To approve or disapprove the leasing, transfer, ownership and possession of Units as may be provided by the Declaration.
- (h) To enforce by legal means the provisions of the Act, the Declaration, these Articles, the By-Laws, and the rules and regulations for the use of the Condominium Property and Association Property.
- (i) To contract for the management and maintenance of the Condominium Property and/or Association Property and to authorize a management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as reviewing and evaluating the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of Common Elements and/or Association Property 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 in the Condominium documents and the Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (j) To employ personnel to perform the services required for the proper operation of the Condominium and the Association Property.
- (k) Subject to the limitations set forth in the Declaration, to execute all documents or consents, on behalf of all Unit Owners (and their mortgagees), required by all governmental and/or quasi-governmental agencies in connection with land use and development matters (including, without limitation, plats, waivers of plat, unities of title, covenants in lieu thereof, etc.) approved by the Board, and in that regard, each Owner, by acceptance of the deed to such Owner's Unit, and each mortgagee of a Unit by acceptance of a lien on said Unit, appoints and designates the President of the Association, as such Owner's agent and attorney-in-fact to execute any and all such documents or consents.

5.3 Association Property. All funds and the title to Association Property shall be held for the use and benefit of its members in accordance with the provisions of the Declaration.

5.4 Distribution of Income; Dissolution. The Association shall not pay a dividend to its members and shall make no distribution of income to its members, directors or officers, and upon dissolution, all assets of the Association shall be transferred only to another non-profit corporation or a public agency or as otherwise authorized by the Florida Not For Profit Corporation Act (Chapter 617, Florida Statutes).

- 5.5 Limitation. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions hereof and of the Declaration, the By-Laws and the Act, provided that in the event of conflict, the provisions of the Declaration shall take precedence over the Articles of Incorporation, By-Laws and applicable rules and regulations; the Articles of Incorporation shall take precedence over the By-Laws and applicable rules and regulations; and the By-Laws shall take precedence over applicable rules and regulations, all as amended from time to time.

ARTICLE 6

MEMBERS

- 6.1 Membership. The members of the Association shall consist of all of the record title owners of Units in the Condominium from time to time, and after termination of the Condominium, shall also consist of those who were members at the time of such termination, and their respective successors and assigns.
- 6.2 Assignment. The share 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 Unit for which that share is held.
- 6.3 Voting. On all matters upon which the membership shall be entitled to vote, there shall be one (1) vote for the Owner of each Unit. All votes shall be exercised or cast in the manner provided by the Declaration and By-Laws. Any person or entity owning more than one Unit shall be entitled to cast the aggregate number of votes attributable to all Units owned. In the event that any Unit is subdividing into a secondary condominium in accordance with the Declaration, the association of such secondary condominium shall be entitled to the one (1) vote applicable to such Unit.
- 6.4 Meetings. The By-Laws shall provide for an annual meeting of members, and may make provision for regular and special meetings of members other than the annual meeting.

ARTICLE 7

TERM OF EXISTENCE

The Association shall have perpetual existence, unless dissolved in accordance with applicable law.

ARTICLE 8

INCORPORATOR

The name and address of the Incorporator of this Corporation is:

Name

Address

Barton Smith

5555 College Road
Key West, FL 33040

ARTICLE 9

OFFICERS

The affairs of the Association shall be administered by the officers holding the offices designated in the By-Laws. The officers shall be elected by the Board of Directors of the Association at its first meeting following the first annual meeting of the members of the Association and shall serve at the pleasure of the Board of Directors. The By-Laws may provide for the removal from office of officers, for filling vacancies and for the duties and qualifications of the officers. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

<u>President</u>	Barton Smith	5555 College Road Key West, FL 33040
<u>Vice President</u>	Bryan Hawks	138 Simonton Street Key West, FL 33040
<u>Secretary/Treasurer</u>	Barry Gibson	5555 College Road Key West, FL 33040

ARTICLE 10

MEMBERS OF BOARD OF DIRECTORS

- 10.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a Board of Directors, with the number of members of the Board of Directors determined in the manner provided by the By-Laws. In no event shall there be fewer than four (4) members of the Board of Directors. Members of the Board of Directors need not be members of the Association/Unit Owners.
- 10.2 Duties and Powers. All of the duties and powers of the Association existing under the Act, the Declaration, these Articles and the By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees, subject only to approval by Unit Owners when such approval is specifically required by the Act, the Declaration, these Articles, or the By-laws.
- 10.3 Appointment; Removal. Members of the Board of Directors of the Association shall be appointed by Unit Owners in the manner determined by and subject to the qualifications set forth in the By-Laws and Declaration. Members of the Board of Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

- 10.4 Term of Developer's Appointees to Board of Directors. The Developer of the Condominium shall appoint the members of the first Board of Directors and their replacements who shall hold office for the periods described in the By-Laws.
- 10.5 First Members of Board of Directors. The names and addresses of the members of the first Board of Directors who shall hold office until their successors have taken office, as provided in the By-Laws, are as follows:

<u>Name</u>	<u>Address</u>
Barton Smith	5555 College Road Key West, FL 33040
Bryan Hawks	138 Simonton Street Key West, FL 33040
Barry Gibson	5555 College Road Key West, FL 33040
Tiffany Garcia	138 Simonton Street Key West, FL 33040

- 10.6 Standards. Each member of the Board of Directors shall discharge his or her duties, including any duties as a member of a committee, if applicable, in good faith; with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and in a manner reasonably believed to be in the best interest of the Association. Unless a member of the Board of Directors has knowledge concerning a matter in question that makes reliance unwarranted, he or she may, in discharging his or her duties, rely on information, opinions, reports or statements, including financial statements and other data, if prepared or presented by: one or more officers or employees of the Association whom the member of the Board of Directors reasonably believes to be reasonable and competent in the matters presented; legal counsel, public accountants or other persons as to matters the member of the Board of Directors reasonably believes are within the persons' professional or expert competence; or a committee of which the member of the Board of Directors is not a member if the member of the Board of Directors reasonably believes the committee merits confidence. A member of the Board of Directors is not liable for any action taken as a member of the Board of Directors, or any failure to take action, if he or she performed the duties of his or her office in compliance with the foregoing standards.

ARTICLE 11
INDEMNIFICATION

- 11.1 Indemnitees. The Association shall indemnify any person who was or is a party to any proceeding (other than an action by, or in the right of, the Association) by reason of the fact that he or she is or was a member of the Board of Directors, or an officer, employee or agent (each, an "Indemnitee") of the Association, against liability incurred in connection with such proceeding, including any appeal thereof, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any proceeding by judgment, order, settlement, or 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 or she reasonably believed to be in, or not opposed to, the best interests of the Association or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.
- 11.2 Indemnification. The Association shall indemnify any person, who was or is a party to any proceeding, or any threat of same, by or in the right of the Association to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee, or agent of the Association against expenses and amounts paid in settlement not exceeding, in the judgment of the Board of Directors, the estimated expense of litigating the proceeding to conclusion, including all fees and costs that would actually and reasonably be incurred in connection with the defense or settlement of such proceeding, including any appeal thereof. Such indemnification shall be authorized if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association, except that no indemnification shall be made under this Article 11 in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable unless, and only to the extent that, the court in which such proceeding was brought, or any other court of competent jurisdiction, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.
- 11.3 Indemnification for 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 proceeding referred to in subsection 11.1 or subsection 11.2, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses actually and reasonably incurred by him or her in connection therewith.
- 11.4 Determination of Applicability. Any indemnification under subsection 11.1 or subsection 11.2, unless pursuant to a determination by a court, shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the member of the Board of Directors, officer, employee, or

agent is proper under the circumstances because he or she has met the applicable standard of conduct set forth in subsection 11.1 or subsection 11.2 above. Such determination shall be made:

- (a) By the Board of Directors by a majority vote of a quorum consisting of members of the Board of Directors who were not parties to such proceeding;
- (b) If such a quorum is not obtainable or, even if obtainable, by majority vote of a committee duly designated by the Board of Directors (in which directors who are parties may participate) consisting solely of two or more members of the Board of Directors not at the time parties to the proceeding;
- (c) By independent legal counsel:
 - (i) selected by the Board of Directors by the method prescribed in paragraph 11.4(a) or the committee by the method prescribed in paragraph 11.4(b); or
 - (ii) if a quorum of the Board of Directors cannot be obtained for paragraph 11.4(a) and the Committee cannot be designated under paragraph 11.4(b), selected by majority vote of the full Board of Directors (in which members of the Board of Directors who are parties may participate); or
- (d) By a majority of the voting interests of the members of the Association who were not parties to such proceeding.

11.5 Determination Regarding Expenses. Evaluation of the reasonableness of expenses and authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible. However, if the determination of permissibility is made by independent legal counsel, persons specified by paragraph 11.4(c) shall evaluate the reasonableness of expenses and may authorize indemnification.

11.6 Advancing Expenses. Expenses incurred by an officer or member of the Board of Directors in defending a civil or criminal proceeding, or any threat of same, may be paid by the Association in advance of the final disposition of such proceeding upon receipt of an undertaking by or on behalf of such member of the Board of Directors or officer to repay such amount if he or she is ultimately found not to be entitled to indemnification by the Association pursuant to this section. Expenses incurred by other employees and agents of the Association may be paid in advance upon such terms or conditions that the Board of Directors deems appropriate.

11.7 Exclusivity; Exclusions. The indemnification and advancement of expenses provided pursuant to this section are not exclusive, and the Association may make

any other or further indemnification or advancement of expenses of any member of the Board of Directors, or officers, employees, or agents, under any bylaw, agreement, vote of members of the Association or disinterested members of the Board of Directors, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office. However, indemnification or advancement of expenses shall not be made to or on behalf of any member of the Board of Directors, officer, employee, or agent if a judgment or other final adjudication establishes that his or her actions, or omissions to act, were material to the cause of action so adjudicated and constitute:

- (a) A violation of the criminal law, unless the member of the Board of Directors, officer, employee, or agent had reasonable cause to believe his or her conduct was lawful or had no reasonable cause to believe his or her conduct was unlawful;
- (b) A transaction from which the member of the Board of Directors, officer, employee, or agent derived an improper personal benefit; or
- (c) Willful misconduct or a conscious disregard for the best interests of the Association in a proceeding by or in the right of the Association to procure a judgment in its favor or in a proceeding by or in the right of the members of the Association.

11.8 Continuing Effect. Indemnification and advancement of expenses as provided in this Article 11 shall continue, unless otherwise provided when authorized or ratified, with respect to a person who has ceased to be a member of the Board of Directors, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person, unless otherwise provided when authorized or ratified.

11.9 Application to Court. Notwithstanding the failure of the Association to provide indemnification, and despite any contrary determination of the Board of Directors or of the members in the specific case, a member of the Board of Directors, or an officer, employee, or agent of the Association who is or was a party to a proceeding may apply for indemnification or advancement of expenses, or both, to the court conducting the proceeding, to the circuit court, or to another court of competent jurisdiction. On receipt of an application, the court, after giving any notice that it considers necessary, may order indemnification and advancement of expenses, including expenses incurred in seeking court-ordered indemnification or advancement of expenses, if it determines that:

- (a) The member of the Board of Directors, or the officer, employee, or agent is entitled to mandatory indemnification under subsection 11.3, in which case the court shall also order the Association to pay such member of the Board of Directors, or the officer, employee, or agent reasonable expenses incurred in obtaining court-ordered indemnification or advancement of expenses;

- (b) The member of the Board of Directors, officer, employee, or agent is entitled to indemnification or advancement of expenses, or both, by virtue of the exercise by the Association of its power pursuant to subsection 11.7; or
 - (c) The member of the Board of Directors, or the officer, employee, or agent is fairly and reasonably entitled to indemnification or advancement of expenses, or both, in view of all the relevant circumstances, regardless of whether such person met the standard of conduct set forth in subsection 11.1, subsection 11.2, or subsection 11.7, unless (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he or she did not act in good faith or acted in a manner he or she reasonably believed to be not in, or opposed to, the best interest of the Association, and, with respect to any criminal action or proceeding, that he or she had reasonable cause to believe his or her conduct was unlawful, and (b) such court further specifically determines that indemnification should be denied. The termination of any 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 or did act in a manner which he or she reasonably believed to be not in, or opposed to, the best interest of the Association, and, with respect to any criminal action or proceeding, that he or she had reasonable cause to believe that his or her conduct was unlawful.
- 11.10 Definitions. For purposes of this Article 11, the term "**expenses**" shall be deemed to include reasonable attorneys' fees and related "**out-of-pocket**" expenses, including those for any appeals; the term "**liability**" shall be deemed to include obligations to pay a judgment, settlement, penalty, fine, and expenses actually and reasonably incurred with respect to a proceeding; the term "**proceeding**" shall be deemed to include any threatened, pending, or completed action, suit, or other type of proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal; and the term "**agent**" shall be deemed to include a volunteer; the term "**serving at the request of the Association**" shall be deemed to include any service as a director, officer, employee or agent of the Association that imposes duties on, and which are accepted by, such persons.
- 11.11 Effect. The indemnification provided by this Article 11 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any applicable law, agreement, vote of members or otherwise.
- 11.12 Amendment. Anything to the contrary herein notwithstanding, no amendment to the provisions of this Article 11 shall be applicable as to any party eligible for indemnification hereunder who has not given his or her prior written consent to such amendment.

ARTICLE 12
BY-LAWS

The first By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided in the By-Laws and the Declaration.

ARTICLE 13
AMENDMENTS

Amendments to these Articles shall be proposed and adopted in the following manner:

- 13.1 Notice. Notice of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered and shall be otherwise given in the time and manner provided in Chapter 617, Florida Statutes. Such notice shall contain the proposed amendment or a summary of the changes to be effected thereby.
- 13.2 Adoption. Amendments shall be proposed and adopted in the manner provided in Chapter 617, Florida Statutes and in the Act (the latter to control over the former to the extent provided for in the Act).
- 13.3 Limitation. No amendment to these Articles shall be made that is in conflict with or prohibited by the Act, the Declaration or the By-Laws.
- 13.4 Developer Amendments. To the extent lawful, the Developer may amend these Articles consistent with the provisions of the Declaration allowing certain amendments to be effected by the Developer alone.
- 13.5 Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of applicable Florida law, and a copy certified by the Secretary of State shall be recorded in the public records of Monroe County, Florida with an identification on the first page thereof of the book and page of said public records where the Declaration was recorded which contains, as an exhibit, the initial recording of these Articles.

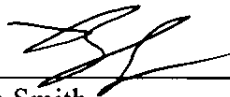
Notwithstanding anything to the contrary contained in these Articles, any amendment to these Articles may only be made in accordance with Section 6.2 (Material Amendments) of the Declaration.

ARTICLE 14
INITIAL REGISTERED OFFICE;
ADDRESS AND NAME OF REGISTERED AGENT

The initial registered office of this corporation shall be at 5555 College Road, Key West, Florida 33040. The initial registered agent at that address shall be Barton Smith.

[REMAINDER OF PAGE INTENTIONALLY BLANK. SIGNATURE PAGE AND
CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE FOR THE SERVICE
OF PROCESS WITHIN THIS STATE, NAMING AGENT UPON WHOM PROCESS MAY
BE SERVED CONTAINED ON FOLLOWING PAGES.]

IN WITNESS WHEREOF, the Incorporator has affixed its signature this 27th day of March, 2017.



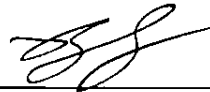
Barton Smith

CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE
FOR THE SERVICE OF PROCESS WITHIN THIS STATE,
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED

In compliance with the laws of Florida, the following is submitted:

That desiring to organize under the laws of the State of Florida with its principal office, as indicated in the foregoing articles of incorporation, in the County of Monroe, State of Florida, the Association named in the said articles has named Barton Smith, located at 5555 College Road, Key West, FL 33040, as its statutory registered agent.

Having been named the statutory agent of said Association at the place designated in this certificate, I am familiar with the obligations of that position, and hereby accept the same and agree to act in this capacity, and agree to comply with the provisions of Florida law relative to keeping the registered office open.



Barton Smith, Registered Agent

Dated this 27th day of March, 2017

FILED
17 MAR 28 PM 4:08
SECRETARY OF STATE
TALLAHASSEE, FLORIDA