

5/24/2021

Division of Corporations

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**FLORIDA PROFIT/NON PROFIT CORPORATION**  
**Indian River Center Property Owners Maint Assoc, Inc**

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5/25/21

**INDIAN RIVER CENTER PROPERTY OWNERS MAINTENANCE ASSOCIATION, INC.**  
**ARTICLES OF INCORPORATION**  
**In Compliance with Chapter 617, F.S. (Not for Profit)**

**ARTICLE I - NAME**

The name of the association (the "Association") shall be: **INDIAN RIVER CENTER PROPERTY OWNERS MAINTENANCE ASSOCIATION, INC.**

**ARTICLE II - PRINCIPAL OFFICE**

The principal place of business and mailing address of this Association shall be:

Indian River Center Property Owners  
Maintenance Association, Inc.  
c/o Berkowitz Pollack Brant Advisors  
515 E Las Olas Blvd.  
Fort Lauderdale, FL 33301  
Attn: Andrew Leonard and Patricia Werhahn

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**ARTICLE III - PURPOSE**

The purpose of the Association shall be to provide for the management, maintenance, operation and repair of the Surface Water and Stormwater Management System and such other maintenance, repair and replacement obligations as provided in the Declaration of Restrictions, Covenants and Conditions and Grant of Easements recorded in Official Records Book 1358, Page 2077, of the Public Records of Indian River County, Florida, as may be amended from time to time (collectively, the "Declaration").

**ARTICLE IV - MANNER OF ELECTION**

Directors shall be elected or appointed in the manner as provided in the Declaration.

**ARTICLE V - CORPORATE POWERS**

This Association shall have all of the common law and statutory powers of a corporation not for profit under Florida law that are not in conflict with the provisions of these Articles, the Declaration or the By-Laws, as may be amended from time to time.

The Association shall have all of the powers and duties set forth in law and equity, except as limited by these Articles, the By-Laws and the Declaration, and all of the powers and duties reasonably necessary to manage, maintain, operate and repair the Surface Water and Stormwater Management System pursuant to the Declaration and as more particularly described in the By-Laws and these Articles, 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 of the Association, and to use the proceeds thereof in the exercise of its powers and duties.
- (b) To buy, own, operate, lease, sell, trade and mortgage both real and personal property.
- (c) To maintain, repair, replace, reconstruct, add to and operate the Surface Water and Stormwater Management System, and other property acquired or leased by the Association.
- (d) To purchase insurance upon the Surface Water and Stormwater Management System and insurance for the protection of the Association, its officers, directors and Tract Owners.
- (e) To make and amend reasonable rules and regulations for the maintenance, conservation and use of the Surface Water and Stormwater Management System and for the health, comfort, safety and welfare of the Tract Owners.
- (f) 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 Surface Water and Stormwater Management System, subject, however, to the limitation regarding assessing Tracts owned by the Owner of the Shopping Center Tract or the Declarant for fees and expenses relating in any way to claims or potential claims against the Owner of the Shopping Center Tract or the Declarant as set forth in the Declaration and/or By-Laws.
- (g) To contract for the management, operation and maintenance of the Surface Water and Stormwater Management System and to authorize a management agent (who may be an affiliate of the Declarant) 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 elements with 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 law, including, but not limited to, the making of assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (h) To employ personnel to perform the services required for the proper operation of the Surface Water and Stormwater Management System.
- (i) To exercise all other powers and duties as may be set forth in the By-Laws and the Declaration.
- (j) The power to levy reasonable fines pursuant to the Declaration.

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**ARTICLE VI – INITIAL REGISTERED AGENT AND STREET ADDRESS**

The name and address of the registered agent is:

Frank, Weinberg & Black, P.L.  
1875 NW Corporate Boulevard, Suite 100  
Attn: Steven W. Deutsch, Esquire  
Boca Raton, FL 33431

**ARTICLE VII – INCORPORATOR**

The name and address of the incorporator is:

Steven W. Deutsch, Esquire  
1875 NW Corporate Boulevard, Suite 100  
Boca Raton, FL 33431

**ARTICLE VIII – BOARD OF DIRECTORS & OFFICERS**

The Board of Directors and Officers of the Association shall be as provided in the Declaration and Bylaws and shall be elected or appointed as provided in the Declaration and the Bylaws. The first Board of Directors shall be:

Patricia Werhahn  
c/o Berkowitz Pollack Brant Advisors  
515 E Las Olas Blvd.  
Fort Lauderdale, FL 33301  
Attn: Andrew Leonard and Patricia Werhahn

The first officer shall be Patricia Werhahn, who shall serve as President, Secretary and Treasurer.

**ARTICLE IX – BYLAWS**

The Bylaws of the Association shall be adopted by the Board of Directors at their first meeting and may be altered, amended or rescinded in the manner provided in the Bylaws.

**ARTICLE X – EXISTENCE**

Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida. The Association shall exist in perpetuity.

**ARTICLE XI – MEMBERSHIP**

All persons who are Owners of Tracts within the Property shall automatically be Members of this Association. Such membership shall automatically terminate when such person is no longer the

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Owner of a Tract. Membership in this Association shall be limited to such Tract Owners. All voting rights shall be in accordance with the provisions of Section 10.5 of Article X of the Declaration.

#### **ARTICLE XII – ASSESSMENTS OF OWNERS**

The Association shall have the power and authority to assess the Members of the Association for the maintenance and repair of the Surface Water and Stormwater Management Systems including but not limited to work within retention areas, drainage structures and drainage easements, as more fully described in the Declaration.

#### **ARTICLE XIII – DISSOLUTION**

In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which would comply with Section 40C- 42.027, F.A.C., and be approved by the St. Johns River Water Management District prior to such termination, dissolution or liquidation.

#### **ARTICLE XIV – PROPERTY DESCRIPTION**

The property encompassed by the permit must be included in the definition of the Property (where the Surface Water and Stormwater Management System will be located) for the Declaration.

#### **ARTICLE XV – DEFINITIONS**

Unless otherwise expressly defined herein, all capitalized terms used herein shall have the same meanings given to such terms in the Declaration.

#### **ARTICLE XVI – DUTIES OF ASSOCIATION**

The Association shall perform such maintenance, repair and replacement obligations as are set forth in the Declaration, operate, maintain and manage the Surface Water and Storm Management System in a manner consistent with the St. Johns River Water Management District permit no. 4-061-63357-2 requirements and applicable District rules, and shall assist in the enforcement of the provisions of the Declaration which relate to the Surface Water and Storm Water Management System. The Association shall levy and collect adequate assessments against Members of the Association for the costs of maintenance and operation of the Surface Water and Storm Water Management System and such other maintenance, repair and replacement obligations in the manner as provided in the Declaration.

#### **ARTICLE XVII – COVENANT FOR MAINTENANCE ASSESSMENTS FOR ASSOCIATION**

The assessments shall also be used for the Association's performance of maintenance, repair and replacement obligations as are set forth in the Declaration, including such repair and maintenance of the Surface Water or Storm Water Management System including but not limited to work within

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retention areas, drainage structures and drainage easements. The Board of Directors of the Association may, by a majority vote, increase such assessments in accordance with the terms of the Declaration.

#### **ARTICLE XVIII – EASEMENT FOR ACCESS AND DRAINAGE**

The Association shall have a perpetual non-exclusive easement over the Property (including the Surface Water and Storm Water Management System) pursuant to Section 8.2 of the Declaration.

#### **ARTICLE XIX – AMENDMENT**

These Articles of Incorporation may be modified or amended at any duly convened meeting of the Members by the affirmative vote of a majority (based on voting weight determined in accordance with Paragraph 10.5 of the Declaration) of the total votes of the Members present at a duly called meeting of the Members of the Association; provided, however, prior to the Turn-Over Date, no amendment to these Articles shall be valid without the consent of the Class "B" Member. Said amendment(s) shall be effective when a copy thereof, together with an attached certificate of its approval by the membership, sealed with the corporate seal, signed by the Secretary, or an Assistant Secretary, and executed and acknowledged by the President, has been filed with the Secretary of State, and all filing fees paid.

The Class "B" Member, in accordance with the provisions of the Declaration, may amend these Articles consistent with the provisions of the Declaration, without the consent of the Class "A" Members until the Turn-Over Date.

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 Indian River County, Florida.

Notwithstanding the foregoing, any amendment to the Declaration or these Articles which alter any provision relating to the Surface Water and Storm Water Management System, beyond maintenance in its original condition, including the water management portions of the Common Areas, must have the prior written approval of the St. Johns River Water Management District. The Board of Directors of the Association may, by a majority vote, make any amendment to the Declaration or these Articles to come into compliance with District rules.

#### **ARTICLE XX – ENFORCEMENT**

The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Declaration or these Articles which relate to the maintenance, operation and repair of the Surface Water and Storm Water Management System.

#### **ARTICLE XXI – DISTRIBUTION**

There shall be no dividends paid to any of the Members nor shall any part of the income of the Association be distributed to its Board of Directors or officers. In the event there are any excess receipts over disbursements as a result of performing services, such excess shall be either refunded to the

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Members or kept by the Association and applied against the Association's expenses for the following year as shall be determined by a vote of the Members, subject to approval by the Board of Directors of the Association. The Association may pay compensation in a reasonable amount to its Members, directors, and officers, and/or the Declarant, its directors and officers and employees for services rendered, and may confer benefits upon its Members in conformity with its purposes, and upon dissolution or final liquidation, may make distribution to its Members as is permitted by the court having jurisdiction thereof, and no such payment, benefit or distribution shall be deemed to be a dividend or distribution of income.

This Association shall issue no shares of stock of any kind or nature whatsoever. Membership in the Association and the transfer thereof, as well as the number and voting of Members, shall be upon such terms and conditions as provided for in the Declaration and By-Laws.

#### ARTICLE XXII - PRINCIPAL OFFICE

The current offices of the Association shall be located at c/o Berkowitz Pollack Brant Advisors, 515 E Las Olas Blvd., Fort Lauderdale, FL 33301, but the Association may maintain offices and transact business in such other places within or without the State of Florida as may from time-to-time be designated by the Board of Directors.

#### ARTICLE XXIII - INDEMNIFICATION

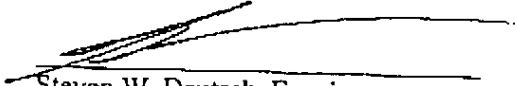
The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, employee, officer or agent of the Association, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement as long as actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and 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, had no reasonable cause to believe his conduct was unlawful, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or misfeasance or malfeasance in the performance of his duty to the Association, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of non 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.

By Action by Unanimous Written Consent of the Directors and Sole Member dated May 24, 2021, the Board of Directors and sole Member of the Association approved these Articles of Incorporation.

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IN WITNESS WHEREOF the undersigned subscribing incorporator to these Articles of Incorporation has hereunto set his hand and this 24<sup>th</sup> day of May 2021.

  
Steven W. Deutsch, Esquire

**CERTIFICATE OF DESIGNATION OF REGISTERED AGENT/REGISTERED OFFICE**

Pursuant to the provisions of Section 607.0501 or 617.0501, Florida Statutes, the undersigned corporation, organized under the laws of the State of Florida, submits the following statement in designating the registered office/registered agent in the State of Florida.

The name of the corporation is:

**INDIAN RIVER CENTER PROPERTY OWNERS MAINTENANCE  
ASSOCIATION, INC.**

The name and address of the registered agent and office is:

Frank, Weinberg & Black, P.L.  
1875 NW Corporate Boulevard, Suite 100  
Attn: Steven W. Deutsch, Esquire  
Boca Raton, FL 33431

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

  
Signature/Registered Agent

Date: May 24, 2021

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