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**FLORIDA PROFIT/NON PROFIT CORPORATION**

**1401-1415 SW 4TH STREET PROPERTY OWNERS' ASSOCIATION**

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**ARTICLES OF INCORPORATION  
OF  
1401-1415 SW 4TH STREET PROPERTY OWNERS' ASSOCIATION, INC.**

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The undersigned, desiring to form a corporation not-for-profit pursuant to Chapter 617, Florida Statutes, hereby executes and adopts these Articles of Incorporation for the purposes set forth below.

**ARTICLE I**

**NAME**

The name of the corporation is 1401-1415 SW 4TH STREET PROPERTY OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation (hereinafter "Association").

**ARTICLE II**

**PRINCIPAL OFFICE**

The initial principal office of the corporation is located at 2240 West First Street, Suite 101, Fort Myers, Florida 33901.

**ARTICLE III**

**PURPOSE AND POWERS**

The purpose for which the Association is organized is to provide an entity pursuant to Chapter 617 of the Florida Statutes for the operation and maintenance of certain Common Areas and facilities serving the property that has been or will be submitted to that certain Declaration of Covenants, Conditions, Restrictions and Easements of 1401-1415 SW 4th Street as recorded in the Public Records of Lee County, Florida (hereinafter "Declaration"). Except as may be otherwise provided herein, the terms used herein shall have the meaning as provided in the Declaration.

The Association is organized and shall exist upon a non-stock basis as a corporation not-for-profit under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any Member, Director, or Officer of the Association. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not-for-profit except as limited or modified by these Articles, the Declaration, the Bylaws of the Association, and Chapter 617, Florida Statutes, as it may hereafter be amended, including, but not limited to, the following:

- (A) To make and collect assessments against all Members of the Association to defray the costs, expenses, and losses of the Association, and to use the proceeds of assessments in the exercise of its powers and duties.
- (B) To acquire (by gift, purchase, or otherwise), own, hold and improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real and personal property in connection with the affairs of the Association.

- (C) To protect, maintain, repair, replace and operate the Stormwater Management System as permitted by South Florida Water Management District, which may include, without limitation, lakes, retention areas, landscaping, conservation easements and areas, culverts, and related appurtenances.
- (D) To protect, maintain, repair, replace and operate all Common Areas and Association owned real and personal property.
- (E) To purchase insurance upon the Association property for the protection of the Association and its members.
- (F) To reconstruct the Common Areas and Association property after casualty and to make further improvements of the Stormwater Management System.
- (G) To make, amend and enforce reasonable rules and regulations related to the operation, use, maintenance, management and control of the Common Areas, the Stormwater Management System, and the Association.
- (H) To enforce the provisions of the Declaration, these Articles, and the Bylaws, and any rules and regulations of the Association.
- (I) To contract for the management, operation, and maintenance of the Common Areas, including, but not limited to, the Stormwater Management System, and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration to be exercised by the Board of Directors or the membership of the Association.
- (J) To employ accountants, attorneys, engineers, and other professional consultants to perform the services required for proper operation of the Association.
- (K) To borrow or raise money for any of the purposes of the Association; to draw, make, accept, endorse, execute and issue promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable instruments and evidences of indebtedness; and to secure the payment of any thereof, and of the interest thereon, any mortgage, pledge, conveyance or assignment in trust, of the whole or any part of the rights or property of the Association, whether at the time owned or thereafter acquired.
- (L) To sue and be sued.
- (M) To accept easements over certain real property so long as such easements are for the benefit of the members of the Association as determined by the Board of Directors to be in accordance with the Declaration and/or a requirement of the South Florida Water Management District.

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 of Incorporation, and the Bylaws.

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#### ARTICLE IV

##### DIRECTORS AND OFFICERS

- (A) The affairs of the Association will be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors, and in the absence of such determination shall consist of three (3) Directors.
- (B) Directors of the Association shall be elected or appointed by the Members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.
- (C) The business of the Association shall be conducted by the Officers designated in the Bylaws. The initial Officers shall be as stated in these Articles and shall be appointed by Declarant until Turnover (as defined in the Declaration). Following Turnover, the Officers shall be elected by the Board of Directors at its first organizational meeting following Turnover, and shall serve until the next Annual Meeting of the Board of Directors or until their successors are duly qualified and elected.

#### ARTICLE V

##### INITIAL DIRECTORS

The initial Officers and Directors of the Association shall be:

M. Dan Creighton - President/Director  
2240 West First Street, Suite 101  
Fort Myers, Florida 33901

G. Brent Evans - Secretary/Director  
2240 West First Street, Suite 101  
Fort Myers, Florida 33901

Kimberly Hauser - Treasurer/Director  
2240 West First Street, Suite 101  
Fort Myers, Florida 33901

#### ARTICLE VI

##### REGISTERED OFFICE AND INITIAL REGISTERED AGENT

The initial registered office of the Association shall be at 1833 Hendry Street, Fort Myers, Florida 33901.

The initial registered agent at said address shall be PLF Registered Agent, L.L.C.

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**ARTICLE VII**

**INCORPORATOR**

The name and address of the incorporator is as follows:

M. Dan Creighton  
2240 West First Street, Suite 101  
Fort Myers, Florida 33901

**ARTICLE VIII**

**MEMBERSHIP**

- (A) The Members of the Association shall consist of all record owners of a fee simple interest in one or more Lots within the real property submitted to the Declaration.
- (B) The share of a Member in the funds and assets of the Association cannot be assigned or transferred in any manner except as an appurtenance to the Lot owned by that Member.
- (C) The Members shall be entitled to the number of votes in Association matters as set forth in the Bylaws. The manner of exercising voting rights shall be as set forth in the Bylaws.

**ARTICLE IX**

**TERM**

The term of the Association shall be perpetual.

**ARTICLE X**

**BYLAWS**

The Bylaws of the Association may be altered, amended, or rescinded in the manner provided therein.

**ARTICLE XI**

**AMENDMENTS**

Prior to Turnover, Declarant may amend these Articles unilaterally without the joinder and consent of any other Owners for any purpose Declarant, in its sole discretion, deems necessary or desirable to further its development objectives, subject only to any owner approvals as may specifically be required in the Declaration. Following Turnover, 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 by petition in writing, signed by the Members representing at least one-half (1/2) of the voting interests of the entire membership.

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- (B) Procedure. Upon any amendment or amendments to these Articles being proposed by said Board or Members, such proposed amendment or amendments shall be submitted to a vote of the Members not later than the next membership meeting for which proper notice can be given.
- (C) Vote Required. Except as otherwise required by Florida law, these Articles of Incorporation may be amended by a vote of three-fourths (3/4) of the total voting interests, which vote may occur at any annual or special meeting of the Members, or by approval in writing of three-fourths (3/4) of the total voting interests of the Members without a meeting, provided that written notice of any proposed amendment has been given to all Members of the Association, and that the notice contains a fair statement of the proposed amendment.
- (D) Effective Date. An amendment shall become effective upon filing with the Secretary of State and recording a copy in the Public Records of Lee County, Florida.

## ARTICLE XII

### DISSOLUTION AND ENFORCEMENT

In the event of dissolution of the Association, the Association shall have the power to dedicate the operation and maintenance of the Stormwater Management System and Common Areas and corresponding infrastructure to an appropriate agency of local government for purposes of operating and maintaining said Common Areas in accordance with South Florida Water Management District and City requirements, or if not accepted by such local agency, then the Stormwater Management System and Common Areas and corresponding infrastructure shall be dedicated to a successor or similar non-profit corporation. The SFWMD and/or the City of Cape Coral shall have the right to take enforcement action, including a civil action for an injunction and penalties against the Association to compel it to correct any outstanding problems with the Common Areas, Stormwater Management System or in mitigation areas or conservation easements under the responsibility of the Association.

WHEREFORE the incorporator has caused these presents to be executed this 26th day of April, 2023.

DocuSigned by:

*M. Dan Creighton*

M. Dan Creighton, INCORPORATOR

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**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 1401-1415 4th Street Property Owners' Association, Inc., desiring to organize under the laws of the State of Florida, has named PLF Registered Agent, L.L.C., as its statutory Registered Agent.

Having been named the statutory Registered Agent of the above-stated corporation at the place designated in this Certificate, I 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, and I accept the obligations pursuant to the applicable Florida Statutes.

PLF Registered Agent, L.L.C.  
a Florida limited liability company

By: Pavese Law Firm, Its Authorized Member

By:

  
Michael P. Lehnert, Partner

Date:

4/26/23

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