

P97000058562

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*Amended
Restated*

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

06 JUL 17 PM 1:10

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DEPT. OF REVENUE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

06 JUL 17 PM 12:34

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*102
7/26/06*

**02250, 00579, 00672*



CORPORATION SERVICE COMPANY

ACCOUNT NO. : 072100000032
REFERENCE : 244259 4320888
AUTHORIZATION : *[Signature]*
COST LIMIT : \$ 43.75

ORDER DATE : July 17, 2006

ORDER TIME : 11:50 AM

ORDER NO. : 244259-005

CUSTOMER NO: 4320888

DOMESTIC AMENDMENT FILING

NAME: SHELL CREEK RESORT
INCORPORATED

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT
 RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY
 PLAIN STAMPED COPY
 CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Carina L. Dunlap -- EXT# 2951

EXAMINER'S INITIALS: _____



FLORIDA DEPARTMENT OF STATE
Division of Corporations

July 18, 2006

CSC
Atten: Carina L. Dunlap
1201 Hays Street
Tallahassee, FL 32301

RESUBMIT
Please give original
submission date as file date.

SUBJECT: SHELL CREEK RESORT INCORPORATED
Ref. Number: P97000058562

We have received your document for SHELL CREEK RESORT INCORPORATED and the authorization to debit your account in the amount of \$43.75. However, the document has not been filed and is being returned for the following:

A certificate must accompany the Restated Articles of Incorporation setting forth either of the following statements: (1) The restatement was adopted by the board of directors and does not contain any amendment requiring shareholder approval. OR (2) If the restatement contains an amendment requiring shareholder approval, the date of adoption of the amendment and a statement setting forth the following: (a) the number of votes cast for the amendment by the shareholders was sufficient for approval (b) If more than one voting group was entitled to vote on the amendment, a statement designating each voting group entitled to vote separately on the amendment and a statement that the number of votes cast for the amendment by the shareholders in each voting group was sufficient for approval by that voting group.

If you have any questions concerning the filing of your document, please call (850) 245-6907.

Annette Ramsey
Document Specialist

Letter Number: 806A00045816

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DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
2006 JUL 26 AM 8:44
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TO ACKNOWLEDGE
SUFFICIENCY OF FILING

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION FOR
SHELL CREEK RESORT INCORPORATED**

FILED
06 JUL 17 PM 1:10
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLE I - NAME

The name of the Corporation is Shell Creek Resort Incorporated.

ARTICLE II - CAPITAL STOCK

The Corporation is authorized to issue 100 shares of common stock having no par value per share.

ARTICLE III - MAILING ADDRESS AND PRINCIPAL ADDRESS

The mailing address of the Corporation is 46 N. Washington Boulevard, Suite 1, Sarasota, Florida 34236 and the principal address is 35711 Washington Loop Drive, Punta Gorda, Florida 33982.

ARTICLE IV - REGISTERED AGENT AND ADDRESS

The street address of the registered office of this corporation is 46 N. Washington Boulevard, Suite 1, Sarasota, Florida 34236, and the name of the registered agent of this Corporation is LPS Corporate Services, Inc.

ARTICLE V - PURPOSE

The Corporation's business and purpose shall consist solely of the following:

(i) To engage solely in the ownership, operation and management of the real estate project known as Shell Creek Resort located in Punta Gorda, Florida (the "Property"), pursuant to and in accordance with these Amended and Restated Articles of Incorporation and the Corporation's Bylaws; and

(ii) to engage in such other lawful activities permitted to corporations by the General Corporation Laws of the State of Florida as are incidental, necessary or appropriate to the foregoing.

ARTICLE VI - LIMITATIONS

Notwithstanding any other provision of these Amended and Restated Articles of Incorporation and any provision of law that otherwise so empowers the Corporation, so long as any portion of the Loan (hereinafter defined) remains outstanding, the Corporation shall not, without the unanimous consent of the members of the Board of Directors, do any of the following:

(iii) engage in any business or activity other than those permitted hereby or own any assets other than those related to the Property;

(iv) do any act which would make it impossible to carry on the ordinary business of the Corporation, except as otherwise provided in these Amended and Restated Articles;

(v) borrow money or incur any indebtedness or assume or guaranty any indebtedness of any other entity, other than normal trade accounts and lease obligations incurred in the ordinary course of business, or grant consensual liens on the Corporation's property; except, however, the Corporation is hereby authorized to secure financing (the "Loan") for the Corporation from Union Capital Investments, LLC in such amount and on such terms as the signing officer of the Corporation may elect, and to grant a mortgage, deed of trust, lien or liens on the Corporation's property to secure such Loan, as well as incur other indebtedness to the extent expressly authorized pursuant to the documents further evidencing the Loan;

(vi) dissolve or liquidate, in whole or in part;

(vii) sell or lease or otherwise dispose of all or substantially all of the assets of the Corporation except in a manner, if any, consistent with the requirements of the documents evidencing the Loan;

(viii) institute proceedings to be adjudicated bankrupt or insolvent, or consent to the institution or bankruptcy or insolvency proceedings against it, or file a petition seeking or consenting to reorganization or relief under any applicable federal or state law relating to bankruptcy, or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Corporation or a substantial part of property of the Corporation, or make any assignment for the benefit of creditors, or admit in writing its inability to pay its debts generally as they become due, or take corporate action in furtherance of any such action;

(ix) amend the Articles of Incorporation or the Bylaws of the Corporation; or

(x) consolidate or merge with or into any other entity or convey or transfer or lease its property and assets substantially as an entirety to any entity.

In addition to the foregoing, the Corporation shall not, without the written consent of the holder of the promissory note evidencing the Loan so long as it is outstanding, take any action set forth in items (i) through (v) or items (vii) or (viii) above.

ARTICLE VII - TITLE TO CORPORATE PROPERTY

All property owned by the Corporation shall be owned by the Corporation as an entity and, insofar as permitted by applicable law, no shareholder or officer shall have any ownership interest in any corporate property in its individual name or right and, each share or other ownership interest in the Corporation shall be personal property for all purposes.

ARTICLE VIII - SEPARATENESS PROVISIONS

The Corporation shall:

- (a) maintain books and records and bank accounts separate from those of any other person;
- (b) maintain its assets in its own name and in such a manner that it is not costly or difficult to segregate, identify or ascertain such assets;
- (c) hold itself out to creditors and the public as a legal entity separate and distinct from any other entity;
- (d) hold regular Board of Director and Shareholder meetings, as appropriate, to conduct the business of the Corporation, and observe all other corporate formalities;
- (e) prepare separate tax returns and financial statements and not permit its assets to be listed as assets on the financial statements of any other entity, or if part of a consolidated group, then it will be shown as a separate member of such group;
- (f) allocate and charge fairly and reasonably any common employee or overhead shared with affiliates;
- (g) transact all business with affiliates on an arm's-length basis and pursuant to enforceable agreements, the terms of which are intrinsically fair, commercially reasonable and are no less favorable than would be obtained in a comparable transaction with an unrelated third party;
- (h) conduct business in its own name, and use separate stationery, invoices and checks;
- (i) not commingle its assets or funds with those of any other person;
- (j) neither make any loans or advances to any person or entity nor hold evidence of indebtedness issued by any person or entity;
- (k) not assume, guaranty or pay the debts or obligations of any other person or hold out its credit as being available to satisfy the obligations of others;
- (l) timely pay all of its tax obligations;
- (m) pay its own liabilities only out of its own funds;
- (n) not pledge its assets for the benefit of any other entity;
- (o) pay the salaries of its own employees, if any, and maintain a sufficient number of employees in light of the contemplated business operations;
- (p) correct any known misunderstanding regarding its separate identity;

(q) not acquire any securities or obligations of its officers, shareholders or any affiliate;

(r) cause the officers and other representatives of the Corporation to act at all times with respect to the Corporation consistent and in furtherance of the foregoing and in the best interests of the Corporation while simultaneously considering the interests of its creditors;

(s) maintain adequate capital in light of the Corporation's contemplated business purpose, transactions and liabilities;

(t) remain solvent and pay all of its debts and liabilities from its assets as they become due; and

(u) not identify any of its shareholders or any affiliate thereof as a division or part of the Corporation, and will not identify itself as a division or part of any other entity.


ARTICLE IX - SUBORDINATION OF INDEMNITIES

All indemnification obligations of the Corporation are fully subordinated to any obligations relative to the Loan or respecting the Property and such indemnification obligations shall in no event constitute a claim against the Corporation if cash flow in excess of amounts necessary to pay obligations under the Loan is insufficient to pay such indemnification obligations.

The Amended and Restated Articles of Incorporation was duly adopted by all of the members of the Board of Directors and Shareholders of the Corporation this 14th day of July, 2006

IN WITNESS WHEREOF, the undersigned has executed these Amended and Restated Articles of Incorporation this 14th day of July, 2006.

SHELL CREEK RESORT
INCORPORATED, a Florida corporation

By: 
L. MARTIN DeFELICE
President

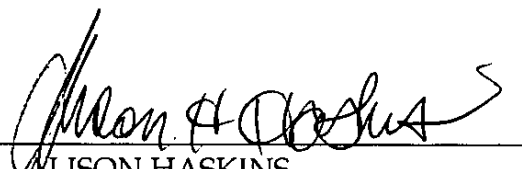
**NOTICE OF APPOINTMENT OF REGISTERED AGENT,
ACCEPTANCE, AND DESIGNATION OF CORPORATE OFFICE**

The undersigned, *LPS CORPORATE SERVICES, INC.*, a Florida corporation, having a street address of 46 North Washington Blvd., #1, Sarasota, Florida 34236, having been appointed by the members of the Board of Directors of *SHELL CREEK RESORT INCORPORATED*, as registered agent, states as follows:

1. The address of the registered agent shall be 46 North Washington Boulevard, Suite 1, Sarasota, Florida 34236, and it shall notify the Department of State of any change in address of this office or the name of the registered agent at this address.

2. It accepts the appointment and consents to serve as registered agent of the corporation pursuant to Section 617.023, Florida Statutes.

LPS CORPORATE SERVICES, INC., a
Florida corporation

By: 
ALISON HASKINS
Vice President