

P 970000 69115



ACCOUNT NO. : 072100000032

REFERENCE : 490928 81523A

AUTHORIZATION :

Patricia Piquito

COST LIMIT : \$ 122.50

ORDER DATE : August 8, 1997

ORDER TIME : 12:13 PM

ORDER NO. : 490928-005

CUSTOMER NO: 81523A

10000262521--3

CUSTOMER: Daniel L. Decubellis, Esq
MATHEWS RAILEY DECUBELLIS &
GOODWIN
Suite 801, Firststate Tower
255 South Orange Avenue
Orlando, FL 32801

DOMESTIC FILING

NAME: METRO PARKWAY LEE COUNTY, INC.

EFFECTIVE DATE:

XX ARTICLES OF INCORPORATION
 CERTIFICATE OF LIMITED PARTNERSHIP

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY
 PLAIN STAMPED COPY
 CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Carina L. Dunlap

EXAMINER'S INITIALS:

FILED
97 AUG -8 AM 8:58
TALLAHASSEE FLORIDA
SECRETARY OF STATE

RECEIVED
97 AUG -8 PM 3:27
TALLAHASSEE FLORIDA
DIVISION OF CORPORATE AFFAIRS
SECRETARY OF STATE

SN AUG 11 1997.

8

**ARTICLES OF INCORPORATION
OF
METRO PARKWAY LEE COUNTY, INC.**

FILED
97 AUG -8 AM 8:58
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The undersigned incorporator, being Jimmie D. Williams, competent to contract, subscribes to these Articles of Incorporation to form a corporation for profit under the laws of the State of Florida.

ARTICLE I - Name

The name of this Corporation shall be:

METRO PARKWAY LEE COUNTY, INC.

ARTICLE II - Purpose

The nature of the business and of the purposes to be conducted and promoted by the Corporation is solely to acquire, manage, own and hold the General Partnership interest in the Florida limited partnership known as Colonial & Metro, Ltd. (the "Partnership") and to act as the general partner in such Partnership with all the rights, powers, obligations and liabilities of general partner under the Limited Partnership Agreement of the Partnership (the "Limited Partnership Agreement") and to take any and all actions and do any and all things necessary or appropriate to the accomplishment of same. The Corporation shall exercise all powers enumerated in the Florida Business Corporation Act necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

ARTICLE III - Certain Prohibited Activities

The Corporation shall not, without the affirmative vote of 100 percent of the Board of Directors, including the affirmative vote of the Independent Director, institute, with respect to either the corporation or the Partnership, proceedings to be adjudicated bankrupt or insolvent; or consent to the institution of bankruptcy or insolvency proceedings against it; or file a petition for itself or the Partnership 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) or a substantial part of its property; 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 any corporate action in furtherance of any such action.

Additionally, the corporation shall not, so long as any indebtedness remains outstanding by the Partnership or the corporation to the Lender, (a) liquidate or dissolve the corporation in whole or in part, (b) consolidate, merge or enter into any form of consolidation with or into any other entity, nor convey, transfer or lease its assets substantially as any entirety to any person or entity nor

permit any entity to consolidate, merge or enter into any form of consolidation with or into the corporation, nor convey, transfer or lease its assets substantially as an entirety to any person or entity and (c) except as permitted by the Lender in writing, amend or modify these Articles of Incorporation.

The corporation shall have no indebtedness or incur any liability other than (a) debts and liabilities for trade payables and accrued expenses incurred in the ordinary course of business and (b) with respect to the loan made or to be made to the Partnership by the Lender.

ARTICLE IV - Indemnification

Any indemnification of the officers and directors of the Corporation shall be fully subordinated to any obligations respecting the Property and shall not constitute a claim against the Corporation in the event that cash flow in excess of amounts necessary to pay holders of such obligations is insufficient to pay such obligations.

ARTICLE V - Single Purpose Entity

For so long as any mortgage lien exists on any of the Property, in order to preserve and ensure its separate and distinct corporate identity, in addition to the other provisions set forth in this certificate of incorporation, the Corporation shall at all times observe the applicable legal requirements for the recognition of the corporation as a legal entity separate from any partners of the Partnership ("Partners") and Affiliates (as defined below), including, without limitation, as follows:

(a) At least one (1) of the directors of the corporation shall be an Independent Director. Independent Director means a person who (i) except in the capacity as a director of the corporation, is not an employee, consultant, agent, director of the corporation or any Affiliate, or a former employee, director or shareholder of the corporation or any Affiliate, (ii) is not a spouse, child, grandchild or sibling of any of (i) above, (iii) is not (and is not affiliated with an entity that is) a significant advisor or consultant to the corporation, (iv) is not affiliated with a company of which the corporation is a significant customer or supplier and (v) has not yet received, and was not a partner, member or an employee of an entity that received, in any year within the five years immediately preceding or any years during such person's incumbency as a director, fees or other income from the corporation or any Affiliate of those entities in the aggregate in excess of 1% of the gross income, for any applicable year, of such person, firm or business. For purposes of this definition, "significant," with respect to any relationship between two Persons shall mean any transaction, services of transactions or relationship involving more than the lesser of (a) \$60,000 per calendar year or (b) 1/2 of 1% of either Person's annual income. In the event of the death, incapacity, resignation or removal of an Independent Director, the Board of Directors shall promptly appoint a replacement Independent Director. In addition, no Independent Director may be removed unless his or her successor has been appointed.

(b) The corporation shall maintain its principal executive office and telephone and facsimile numbers separate from that of any Affiliate and shall conspicuously identify such office and numbers as its own. Additionally, the corporation shall use its own separate stationary, invoices and checks which reflects its separate address, telephone number and facsimile number, as appropriate.

(c) The corporation shall maintain its corporate records and books and accounts separate from those of any Affiliate or any other entity. The corporation shall prepare unaudited quarterly and annual financial statement, and the corporation's financial statements shall substantially comply with generally accepted account principles.

(d) The corporation shall maintain its own separate bank accounts, payroll and correct, complete and separate books of account.

(e) The corporation shall hold itself out to the public (including any Affiliate's creditors) under the corporation's own name and as a separate and distinct corporate entity and not as a department, division or otherwise of any Affiliate.

(f) All customary formalities regarding the corporate existence of the corporation, including holding meetings of or obtaining the consent of its Board of Directors, as appropriate, and its stockholders and maintaining current and accurate minute books separate from those of any Affiliate, shall be observed.

(g) The corporation shall act solely in its own corporate name and through its own duly authorized officers and agent. No Affiliate shall be appointed or act as agent of the corporation.

(h) Investments shall be made in the name of the corporation directly by the corporation or on its behalf by brokers engaged and paid by the corporation to is agent.

(i) Except as required by First Union National Bank or its successors or assigns (collectively, the "Lender"), the corporation shall not guarantee or assume or hold itself out to permit itself to be held out as having guaranteed or assumed any liabilities or obligations of any Partner or any Affiliate, nor shall it make any loan, except as permitted in the Limited Partnership Agreement.

(j) The corporation is and will be solvent and shall pay its own liabilities, indebtedness and obligations of any kind, including all administrative expenses, from its own separate assets.

(k) Assets of the corporation shall be separately identified, maintained and segregated. The corporation's assets shall at all times be held by or on behalf of the corporation and if held on behalf of the corporation by another entity, shall at all times be kept identifiable (in

accordance with customary usages) as assets owned by the corporation. This restriction requires, among other things, that corporate funds shall not be commingled with those of any Affiliate and it shall maintain all accounts in its own name and with its own tax identification number, separate from those of any Affiliate.

(l) The corporation shall not take any action if, as a result of such action, the corporation would be required to register as an investment company under the Investment Company Act of 1940, as amended.

(m) The corporation shall at all times be adequately capitalized to engage in the transactions contemplated at its formation.

(n) All data and records (including computer records) used by the corporation or any Affiliate in the collection and administration of any loan shall reflect the corporation's ownership interest therein.

(o) None of the corporation's funds shall be invested in securities issued by any Affiliate.

"Affiliate" means any person or entity other than the corporation (i) which owns beneficially, directly or indirectly, more than 50 percent of the outstanding shares of the common stock or which is otherwise in control of the corporation, (ii) of which more than 50 percent of the outstanding voting securities are owned beneficially, directly or indirectly, by any person or entity described in clause (i) above; provided that for the purposes of this definition the term "control" and "controlled by" shall have the meanings assigned to them in Rule 405 under the Securities Act of 1933, as amended.

ARTICLE VI - Capital Stock

A. The authorized capital stock of this Corporation and the maximum number of shares of stock that this Corporation is authorized to issue and have outstanding at any one time is 10,000 shares of common stock having a par value of \$.01 per share.

B. All or any portion of the capital stock may be issued in payment for real or personal property, services, or any other right or thing having a value, in the judgment of the Board of Directors, at least equivalent to the full value of the stock so to be issued as hereinabove set forth, and when so issued, shall become and be fully paid and nonassessable, the same as though paid for in cash, and the Directors shall be the sole judges of the value of any property, right or thing acquired in exchange for capital stock, and their judgment of such value shall be conclusive.

ARTICLE VII - Term of Existence

The effective date upon which this Corporation shall come into existence shall be the date of the filing of these Articles of Incorporation, and it shall exist perpetually thereafter unless dissolved according to law.

ARTICLE VIII - Initial Registered Office and Agent

The street address of the initial registered office of this Corporation is 705 East Oak Street, Suite "E", Kissimmee, Florida 34744 and the name of the initial registered agent of this Corporation at that address is Jimmie D. Williams. The corporate principal office and mailing address is 705 East Oak Street, Suite "E", Kissimmee, Florida 34744.

ARTICLE IX Directors

- A. The initial number of Directors of this Corporation shall be three (3).
- B. The number of Directors may be either increased or diminished from time to time by the Board of Directors or the Shareholders in accordance with the By-Laws of this Corporation.
- C. Directors, as such, shall receive such compensation for their services, if any, as may be set by the Board of Directors at any annual or special meeting thereof. The Board of Directors may authorize and require the payment of reasonable expenses incurred by Directors in attending meetings of the Board of Directors.
- D. Nothing in this Article shall be construed to preclude the Directors from serving the Corporation in any other capacity and receiving compensation therefore.
- E. The names and street addresses of the initial members of the Board of Directors, each to hold office until the first annual meeting of the Shareholders of this Corporation or until their successors are elected or appointed and have qualified, are:

<u>Name</u>	<u>Street Address</u>
Jimmie D. Williams	705 E. Oak St. Suite "E" Kissimmee, Florida 34744
Richard A. Gumpert	1216 N. Tustin St. Orange, CA 92867
William J. Stine	2801 Kissimmee Bay Blvd. Kissimmee, FL 34744

F. Any Director may be removed from office by the holders of a majority of the stock entitled to vote thereon at any annual or special meeting of the Shareholders of this Corporation, for any cause deemed sufficient by such Shareholders.

G. In case one or more vacancies shall occur in the Board of Directors by reason of death, resignation or otherwise, the vacancies shall be filled by the Shareholders of this Corporation at their next annual meeting or at a special meeting called for the purpose of filling such vacancies; provided, however, any vacancy may be filled by the remaining Directors until the Shareholders have acted to fill the vacancy.

ARTICLE X - Incorporators

The name and street address of the incorporator signing these Articles is:

<u>Name</u>	<u>Street Address</u>
Jimmie D. Williams	705 E. Oak St. Suite "E" Kissimmee, FL 34744

ARTICLE XI - Lost or Destroyed Certificates

Stock certificates to replace lost or destroyed certificates shall be issued on such basis and according to such procedures as are from time to time provided for in the By-Laws of this Corporation.

ARTICLE XII - Amendment to Articles

These Articles of Incorporation may be amended in the manner provided by law. Every amendment shall be approved by the Board of Directors, proposed by them to the Shareholders, and approved at a Shareholders' meeting by the holders of a majority of the stock issued and entitled to be voted, unless all the Directors and all the Shareholders sign a written statement manifesting their intention that a certain amendment to these Articles of Incorporation be made.

ARTICLE XIII - By-Laws

The power to adopt, alter, amend or repeal By-Laws of this Corporation shall be vested in the Shareholders or the Board of Directors of this Corporation; provided, however, that any By-Laws adopted by the Directors which are inconsistent with any By-Laws adopted by the Shareholders shall be void, and the Directors may not alter, amend or repeal any By-Laws adopted by the Shareholders.

IN WITNESS WHEREOF, the undersigned Incorporator has executed these Articles of Incorporation this 7th day of August, 1997.


Jimmie D. Williams

STATE OF FLORIDA }


COUNTY OF ~~OSCEOLA~~ }
 Orange

The foregoing instrument was acknowledged before me this 7th day of August, 1997, by Jimmie D. Williams, who is personally known to me or who produced _____ as identification and who did not take an oath.

NOTARY PUBLIC:



BETTY KAY CZAJKOWSKI
My Commission CC342944
Expires Feb. 03, 1998
Bonded by HAI
800-422-1555

Sign: 
Print: BETTY KAY CZAJKOWSKI

ACCEPTANCE OF APPOINTMENT AS REGISTERED AGENT

I hereby state that I am familiar with the duties, obligations and responsibilities as a Registered Agent under Florida law, and I hereby accept the duties and responsibilities as Registered Agent for METRO PARKWAY LEE COUNTY, INC.


Jimmie D. Williams

FILED
97 AUG - 8 AM 8:58
SECRETARY OF STATE
TALLAHASSEE, FLORIDA