

STATE OF ALABAMA)
SHELBY COUNTY)

ARTICLES OF RESTATEMENT
OF THE
ARTICLES OF INCORPORATION
OF
MarRay-ASH Plaza, Inc.

Inst # 1997-27661

08/28/1997-27661
04:26 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
011 MCD 40.00

The undersigned, Raymond J. Harbert, as President of MarRay-ASH Plaza, Inc. (the "Corporation"), hereby certifies (i) that the following Articles of Restatement of the Articles of Incorporation of MarRay-ASH Plaza, Inc. contain amendments to the articles of incorporation of the Corporation requiring shareholder approval, (ii) that the Corporation has authorized, issued and outstanding 1,000 shares of common stock, each of which is entitled to one vote and (iii) that such amendments and restated articles have been approved by the unanimous undisputed votes of all shareholders of the Corporation:

ARTICLE I

Name

The name of this corporation (hereinafter referred to as the "Corporation") shall be:

MarRay-ASH Plaza, Inc.

ARTICLE II

Duration

The duration and existence of the Corporation shall be perpetual.

ARTICLE III

Purposes

1. The purposes for which the Corporation is organized shall include the transaction of any and all lawful business for which corporations may be incorporated under Alabama law and, without diminishing the generality of the foregoing, the Corporation is hereby authorized as follows:

- a. To transact any or all lawful business for which corporations may be incorporated under the Alabama Business Corporation Act.
- b. To construct, purchase, manufacture, produce, assemble, receive, lease or in any manner acquire, hold, own, use, operate, develop, install, maintain, service, repair, process, alter, improve, import, export, sell, lease, assign, transfer and generally to trade and deal in and with raw materials, natural or manufactured articles or products, machinery, equipment, devices, systems, parts, supplies, apparatus, goods, wares, merchandise and personal property of every kind, nature or description, tangible or intangible, used or capable of being used for any purpose whatsoever; and to engage and participate in any construction, mercantile, manufacturing or trading business of any kind or character.
- c. To improve, manage, develop, sell, assign, transfer, lease, mortgage, pledge or otherwise dispose of or turn to account or deal with all or any part of the real or personal property of the Corporation and from time to time to vary any investment or employment of capital of the Corporation.
- d. To establish lines of credit with banking houses and with others for the purposes hereinbefore enumerated and set forth, and to incur indebtedness and to raise, borrow, and secure the payment of money in any lawful manner, including the issue and sale, or other disposition of bonds, warrants, debentures, obligations, negotiable or transferable instruments and evidences of indebtedness of any kind, whether secured by mortgage, pledge, deed of trust, or otherwise, for the purpose of adding additional capital, or for any other purpose in and about its business or affairs without limit as to amount except as provided by statute, this to be done on such terms and conditions and by such officers as the lender may require.
- e. To guarantee the principal of and/or interest upon bonds, notes and other evidences of indebtedness or to guarantee the payment of dividends on stock of, or to guarantee the performance of the contracts or other undertakings of or otherwise aid in any other manner, any corporation, firm, or individual in which the Corporation is directly or indirectly interested,

either through ownership of its stock, bonds, securities, or other obligations or otherwise, to the extent permitted by law.

f. To do any and all things herein set forth as principal, agent, contractor, subcontractor, joint venturer, partner, trustee, or otherwise, alone or in company with others, and to do all things necessary and proper for the accomplishment of the objects herein enumerated or necessary or incidental to the protection and benefit of the Corporation, and in general to carry on any lawful business, necessary or incidental to the attainment of the purposes of the Corporation, whether such business is similar in nature to the objects and powers hereinabove set forth or otherwise.

g. The business or purpose of the Corporation is from time to time to do any one or more of the acts and things hereinabove set forth, and it shall have power to conduct and carry on its said business, or any part thereof, and to have one or more offices, and to exercise any or all of its corporate powers and rights, in the State of Alabama, and in the various other states, territories, colonies and dependencies of the United States, in the District of Columbia, and in all or any foreign countries.

h. The foregoing clauses shall be construed as powers as well as objects and purposes, and the matters expressed in each clause shall, except as otherwise expressly provided, be in nowise limited by reference to or inference from the terms of any other clause, but shall be regarded as independent objects, purposes and powers. In furtherance of the aforesaid objects, purposes and powers, the Corporation may have and exercise all the powers now or hereafter conferred by laws of the State of Alabama upon corporations organized under the laws under which the corporation is organized and any and all acts amendatory thereof and supplemental thereto. The enumeration of specific objects, purposes and powers shall not be construed to limit or restrict in any manner the meaning of the general terms or the powers of the Corporation now or hereafter conferred by law, nor shall the expression of one thing be deemed to exclude another not expressed, although it be of like nature; but nothing herein contained shall be construed as authorizing the Corporation to engage in or carry on the business of banking or insurance.

2. Notwithstanding anything in these Articles of Incorporation to the contrary, unless and until that certain loan (the "Loan") from Nomura Asset Capital Corporation (together with its successors and assigns, the "Lender") to the Corporation made pursuant to that certain Loan Agreement dated on or about August 29, 1997 (the "Loan Agreement") is paid in full in accordance with the Loan Documents, (i) the Corporation shall be a Single Purpose Entity (as defined below), (ii) the Corporation shall not take any action that would cause it not to be a Single Purpose Entity, and (iii) the Corporation shall not engage in or consent to any Transfer other than a Permitted Transfer, provided however, that the foregoing

restrictions shall not prohibit (i) the Corporation from making an election to be an S corporation pursuant to Internal Revenue Code Section 1362 and equivalent elections under applicable state laws , (ii) the filing of any tax return or report which consolidates the results of the Corporation's operations with those of MarRay Corporation and/or any or all of MarRay Corporation's other subsidiaries, or the maintenance of any accounts, books and records in connection therewith, or (iii) having the Corporation's financial condition or the results of its operations included in any financial statements which consolidate or include similar information regarding MarRay Corporation and/or any or all of MarRay Corporation's other subsidiaries, or the maintenance of any accounts, books and records in connection therewith as long as Borrower is separately identifiable as a separate entity and not shown as a division of its parent in such statements, books and records. Capitalized terms used but not defined in this Section 2 have the meanings ascribed to them in the Loan Agreement.

"Single-Purpose Entity" means a corporation (i) which was and will be organized solely for the purpose of owning and operating the Facility, (ii) which has not and will not engage in any business unrelated to the ownership or operation of the Facility, (iii) which has not and will not have any assets other than those related to the Facility, (iv) which has not and will not engage in, seek or consent to any dissolution, winding up, liquidation, consolidation or merger, and, except as otherwise expressly permitted by the Loan Agreement, which has not and will not engage in, seek or consent to any asset sale, transfer of shareholder interests, or amendment of its articles of incorporation, (v) which at all relevant times will have at least one Independent Director, (vi) whose board of directors will not take any action requiring the unanimous affirmative vote of 100% of the members of the board of directors unless all of the directors, including without limitation all Independent Directors, shall have participated in such vote (vii) which will not fail to correct any known misunderstanding regarding the separate identity of such entity, (viii) which, without the unanimous consent of all of the directors (including without limitation all Independent Directors), has not and will not with respect to itself or to any other entity in which it has a direct or indirect legal or beneficial ownership interest (a) file a bankruptcy, insolvency or reorganization petition or otherwise institute insolvency proceedings or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally; (b) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for such entity or all or any portion of such entity's properties; (c) make any assignment for the benefit of such entity's creditors; or (d) take any action that might cause such entity to become insolvent, (ix) which will maintain its accounts, books and records separate from any other person or entity, (x) which will maintain its books, records, resolutions and agreements as official records, (xi) which will not commingle its funds or assets with those of any other entity, (xii) which will hold its assets in its own name, (xiii) which has conducted and will conduct its business in its name, (xiv) which will maintain its financial statements, accounting records and other entity documents separate from any other person or entity, (xv) which has paid and will pay its own

liabilities out of its own funds and assets, (xvi) which has observed and will observe all corporate formalities, (xvii) which will maintain an arms-length relationship with its affiliates, (xviii) will have no indebtedness other than (A) the Indebtedness, and (B) Purchase Money Financing and unsecured trade payables incurred in the ordinary course of business relating to the ownership and operation of the Facility which Purchase Money Financing and unsecured trade payables (1) do not exceed in the aggregate, at any time, a maximum amount of two and one half percent (2.5%) of the Loan Amount and (2) in the case of Purchase Money Financing, is paid in accordance with the terms of such Purchase Money Financing and, in the case of unsecured trade payables, are paid within thirty (30) days of the date incurred (unless Borrower is in good faith, contesting Borrower's obligation to pay such Purchase Money Financing or trade payables, as applicable, in a manner satisfactory to Lender (which may include Lender's requirement that Borrower post security with respect to the contested Purchase Money Financing or, if the aggregate amount of trade payables being contested exceeds Fifty Thousand Dollars (\$50,000.00), such contested trade payable(s), as applicable (such security not to exceed 125% of the amount of the claim being contested)), and (xix) which will not assume or guarantee or become obligated for the debts of any other entity or hold out its credit as being available to satisfy the obligations of any other entity except for the Indebtedness, (xx) which has not acquired and will not acquire obligations or securities of its shareholders, (xxi) has allocated and will allocate fairly and reasonably shared expenses including without limitation shared office space and uses separate stationery, invoices and checks, (xxii) which, except pursuant to the Loan Agreement, has not and will not pledge its assets for the benefit of any other person or entity, (xxiii) which has held and identified itself and will hold itself out and identify itself as a separate and distinct entity under its own name and not as a division or part of any other person or entity, (xxiv) which will not make loans to any person or entity, (xxv) which has not and will not identify its shareholders, or any affiliates of any of them as a division or part of it, (xxvi) which will not enter into or be a party to, any transaction with its shareholders or its affiliates except in the ordinary course of its business and on terms which are intrinsically fair and are no less favorable to it than would be obtained in a comparable arms-length transaction with an unrelated third party, (xxvii) which has paid and will pay the salaries of its own employees from its own funds, and (xxviii) which has maintained and will maintain adequate capital in light of its contemplated business operations.

"Independent Director" means a duly appointed member of the board of directors of the relevant entity who shall not have been, at the time of such appointment, at any time after appointment, or at any time in the preceding five (5) years, (i) a direct or indirect legal or beneficial owner in such entity or any of its affiliates, (ii) a creditor, supplier, employee, officer, director, manager or contractor of such entity or any of its affiliates other than outside legal counsel to Borrower, (iii) a person who controls such entity or any of its affiliates, or (iv) a member of the immediate family of a person defined in (i), (ii) or (iii) above; provided however, Joel B.

Piassick is hereby approved for the term of the Loan as an Independent Director of the Corporation.

ARTICLE IV

Capital Stock

The aggregate number of shares which the Corporation shall have authority to issue shall be one thousand (1,000) shares, which shall be divided into the classes, if any, and be of the respective par values, if any, appearing below:

Class	Authorized Shares	Par Value
Common	1,000	\$1.00

ARTICLE V

Special Provisions

The following provisions for the regulation of the business and for the conduct of the internal affairs of the Corporation, the directors and shareholders are hereby established:

1. Except as may otherwise be provided by applicable law, no contract or other transaction between the Corporation and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors or officers are financially interested, shall be either void or voidable because of such relationship or interest or because such director or directors are present at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction, if the contract or transaction is fair and reasonable to the Corporation and if either:

(a) the fact of such relationship or interest is disclosed to the Board of Directors or committee which authorizes, approves or ratifies the contract or transaction by a vote of consent sufficient for the purpose without counting the votes or consents of such interested directors or considering such interested directors as present for purposes of constituting a quorum; or

(b) the fact of such relationship or interest is disclosed to the shareholders entitled to vote, and they authorize, approve or ratify such contract or transaction by vote or written consent.

2. (a) The Corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action, suit or proceeding, whether civil,

criminal, administrative or investigative, including appeals (other than an action by or in the right of the Corporation) by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement 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 interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or 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 and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed claim, action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation and 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 negligence or misconduct in the performance of his duty to the corporation 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 circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

(c) To the extent that a director, officer, employee or agent of the Corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subparagraphs 2(a) and (b) of this Article V, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

(d) Any indemnification under subparagraphs 2(a) and (b) of this Article V (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in said (a) and (b) next above. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit or proceeding, or (2) if such a quorum is not obtainable, or even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the stockholders.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such claim, action, suit or proceeding as authorized in the manner provided in subparagraph 2(d) of this Article V, upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount if and to the extent that it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized herein.

(f) The indemnification authorized herein shall not be deemed exclusive of and shall be in addition to any other right to which those indemnified may be entitled under any statute, rule of law, provision of any other of the articles of incorporation, by-law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(g) The Corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions hereof.

ARTICLE VI

Initial Registered Office and Agent

The registered office of the Corporation shall be located at and have a mailing address of One Riverchase Parkway South, Birmingham, Alabama 35244, and the initial registered agent, who shall maintain the same business address as the Corporation's initial registered office, shall be William W. Brooke.

ARTICLE VII

Initial Board of Directors

The initial Board of Directors of the Corporation shall consist of three (3) persons who shall serve until the next annual meeting of the shareholders and until their successors are elected and qualified. The names and addresses of the members of the initial Board of Directors are as follows:

Name	Address
Raymond J. Harbert	One Riverchase Parkway South Birmingham, Alabama 35244
Marguerite Harbert Gray	One Riverchase Parkway South Birmingham, Alabama 35244
Joel B. Piassick	Kilpatrick Stockton LLP Suite 2800, 1100 Peachtree Street Atlanta, Georgia 30309-4530

ARTICLE VIII

Incorporator

The name and address of the incorporator of the Corporation is as follows:

Name	Address
William W. Brooke	One Riverchase Parkway South Birmingham, Alabama 35244

ARTICLE IX

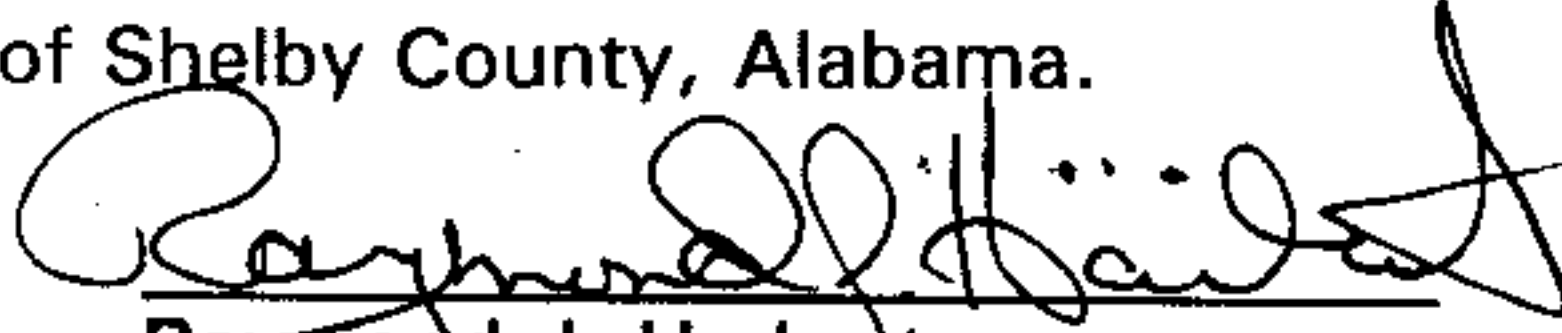
Denial of Pre-emptive Rights

No shareholder of the Corporation shall be entitled as a matter of right to subscribe for, purchase, receive or acquire as a pre-emptive right any shares of stock, or other securities convertible into stock, of the Corporation which it may issue, or sell, whether out of the number of shares now or hereafter authorized or out of shares now or hereafter held in its treasury, but all such additional shares of stock or other securities may be issued or disposed of by the Board of Directors to such persons and upon such terms as in its absolute discretion it may deem advisable.

ARTICLE X

Effective Date and Time

These Articles of Restatement of the Articles of Incorporation of MarRay-ASH Plaza, Inc. shall become effective at 12:01 A.M. on the date of their filing in the office of the Judge of Probate of Shelby County, Alabama.



Raymond J. Harbert
as President of the Corporation

Date executed: August 28, 1997

Prepared By: Felton W. Smith
Balch & Bingham LLP
1901 Sixth Avenue North - Suite 2600
Birmingham, Alabama 35203

STATE OF ALABAMA

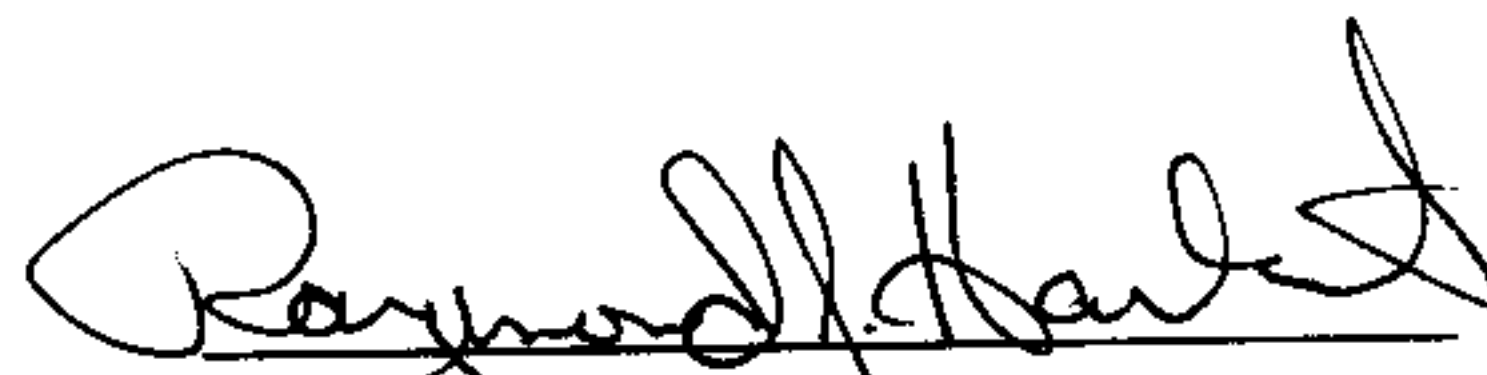
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COUNTY OF SHELBY

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**Certificate of President
of MarRay - ASH Plaza, Inc.
regarding Restated
Articles of Incorporation**

The undersigned, Raymond J. Harbert, as President of MarRay-ASH Plaza, Inc. (the "Corporation"), hereby certifies (i) that the Articles of Restatement of the Articles of Incorporation of MarRay-ASH Plaza, Inc. executed on the date hereof contain amendments to the articles of incorporation of the Corporation requiring shareholder approval, (ii) that the Corporation has authorized, issued and outstanding 1,000 shares of common stock, each of which is entitled to one vote and (iii) that such amendments and restated articles have been approved by the unanimous undisputed votes of all shareholders of the Corporation.



Raymond J. Harbert
as President of the Corporation

Dated August 28, 1997

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