

# CAPITAL CONNECTION, INC.

417 E. Virginia Street, Suite 1 • Tallahassee, Florida 32301  
(850) 224-8870 • 1-800-342-8062 • Fax (850) 222-1222

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Riverwalk Hotels, LLC

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- \_\_\_ Art of Inc. File
- \_\_\_ LTD Partnership File
- \_\_\_ Foreign Corp. File
- \_\_\_ L.C. File
- \_\_\_ Fictitious Name File
- \_\_\_ Trade/Service Mark
- \_\_\_ Merger File
- ☒ Art. of Amend. File
- \_\_\_ RA Resignation
- \_\_\_ Dissolution / Withdrawal
- ☒ Annual Report / Reinstatement
- \_\_\_ Cert. Copy
- \_\_\_ Photo Copy
- \_\_\_ Certificate of Good Standing
- \_\_\_ Certificate of Status
- \_\_\_ Certificate of Fictitious Name
- \_\_\_ Corp Record Search
- \_\_\_ Officer Search
- \_\_\_ Fictitious Search
- \_\_\_ Fictitious Owner Search
- \_\_\_ Vehicle Search
- \_\_\_ Driving Record
- \_\_\_ UCC 1 or 3 File
- \_\_\_ UCC 11 Search
- \_\_\_ UCC 11 Retrieval
- \_\_\_ Courier

Signature

Requested by:

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**AMENDED AND RESTATED  
ARTICLES OF ORGANIZATION FOR  
Riverwalk Hotels, LLC  
a Florida Limited Liability Company**

**ARTICLE I - Name:**

The name of the Limited Liability Company is: **Riverwalk Hotels, LLC**

**ARTICLE II - Address:**

The mailing address and street address of the principal office of the Limited Liability Company is:

c/o Stevan J. Pardo  
Zarco & Pardo, P.A.  
NationsBank Tower at International Place, 27<sup>th</sup> Floor  
100 S.E. 2<sup>nd</sup> Street  
Miami, Florida 33131

**ARTICLE III - Duration:**

The period of duration for the Limited Liability Company shall be: perpetual.

**ARTICLE IV - Management:**

(Check the appropriate box and complete the statement)

- ☒ The Limited Liability Company is to be managed by a manager or managers, and the name(s) and address(es) of such manager(s) who is/are to serve as manager(s) is/are:

**Riverwalk SGB Management, Inc.**, a Florida corporation  
c/o Zarco & Pardo, P.A.  
NationsBank Tower at International Place, 27<sup>th</sup> Floor  
100 S.E. 2<sup>nd</sup> Street  
Miami, Florida 33131

**ARTICLE V - Admission of Additional Members:**

The right, if given, of the members to admit additional members and the terms and conditions of the admissions shall be: none, unless first agreed upon, in writing, by all of the members.

**ARTICLE VI - Members' Rights to Continue Business:**

The right, if given, of the remaining members of the limited liability company to continue the business on the death, retirement, resignation, expulsion, bankruptcy, or dissolution of a member or the occurrence of any other event which terminates the continued membership of a member in the limited liability company shall be: none, unless first agreed upon, in writing, by all of the members.

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## ARTICLE VII - Special Purpose Entity Provisions

1. **Purpose.** The nature of the business and of the purposes to be conducted and promoted by the limited liability company (the "Company"), is to engage solely in the following activities:
  - a. To acquire from Marina Hospitality, L.P., a Maryland limited partnership, certain parcels of real property, together with all improvements located thereon, in the City of Jacksonville, State of Florida (the "Property").
  - b. To own, hold, sell, assign, transfer, operate, lease, mortgage, pledge and otherwise deal with the Property.
  - c. To exercise all powers enumerated in the *Professional Service Corporation and Limited Liability Company Act* of Florida (Florida Statutes Chapter 621) necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein."
2. **Certain Prohibited Activities**
  - a. To the extent permissible under applicable federal and state tax law, the vote of a majority-in-interest of the remaining members is sufficient to continue the existence of the Company. If such vote is not obtained, for so long as the First Mortgage exists on any portion of the Property, the Company shall not liquidate the Property without first obtaining approval of the mortgagee holding the First Mortgage on any portion of the Property. Such holders may continue to exercise all of their rights under the existing security agreements or mortgages until the debt underlying the First Mortgage has been paid in full or otherwise completely discharged.
  - b. So long as the First Mortgage exists on any portion of the Property, the Company shall continue its existence (and not dissolve) for so long as a solvent member exists.
3. **Voting**
  - a. When acting on matters subject to the vote of the members, notwithstanding that the Company is not then insolvent, the members and the managing member shall take into account the interest of the Company's creditors, as well as those of the members to the maximum extent consistent with applicable law.
  - b. The unanimous consent of all members shall be required for the Company to:
    - i. file or consent to the filing of any bankruptcy, insolvency or reorganization case or proceeding;
    - ii. institute any proceedings under any applicable insolvency law or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally,
    - iii. seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Company or a substantial portion of its properties;
    - iv. make any assignment for the benefit of the Company's creditors, or
    - v. take any action in furtherance of the foregoing.
4. **Dissociation of the Special Purpose Corporate Manager.** Upon the dissociation or withdrawal of the Special Purpose Corporate Manager from the Company or the bankruptcy,

insolvency or liquidation of the Special Purpose Corporate Manager, the Company shall appoint a new Special Purpose Corporate Manager and deliver an acceptable non-consolidation opinion to the holder of the First Mortgage and to any applicable rating agency concerning, as applicable, the Company, the new Special Purpose Corporate Manager, and its owners.

5. **Assets, transfer of ownership interests or assets, incurrence of additional debt and amendment of the entity's formation documents.**

- a. The Company shall only incur indebtedness in an amount necessary to acquire, operate and maintain the Property.
- b. For so long as any mortgage lien in favor of Deutsche Banc Mortgage Capital, L.L.C., its successors or assigns (the "First Mortgagee") exists on any portion of the Property, the Company shall not incur, assume, or guaranty any other indebtedness.
- c. For so long as the First Mortgage exists on any portion of the Property, the Company shall not dissolve or liquidate.
- d. For so long as any mortgage lien exists on any portion of the Property, the Company shall not consolidate or merge with or into any other entity or convey or transfer its properties and assets substantially as an entirety to any entity unless
  - i. the entity (if other than the Company) formed or surviving such consolidation or merger or that acquires by conveyance or transfer the properties and assets of the Company substantially as an entirety
    - (1) shall be organized and existing under the laws of the United States of America or any State or the District of Columbia,
    - (2) shall include in its organizational documents the same limitations set forth in this Article VII and in Article VII (7), and
    - (3) shall expressly assume the due and punctual performance of the Company's obligations; and
  - ii. immediately after giving effect to such transaction, no default or event of default under any agreement to which it is a party shall have been committed by this Company and be continuing.
- e. For so long as the First Mortgage exists on any portion of the Property, the Company will not voluntarily commence a case with respect to itself, as debtor, under the Federal Bankruptcy Code or any similar federal or state statute without the unanimous consent of all of the members of the Company.
- f. For so long as the First Mortgage exists on any portion of the Property, no material amendment to these articles of organization may be made without first obtaining approval of the mortgagee holding the First Mortgage on any portion of the Property, or, after the securitization of the Loan, only if the Company receives
  - i. confirmation from each of the applicable rating agencies that such amendment would not result in the qualification, withdrawal or downgrade of any securities rating and
  - ii. approval of such amendment by the mortgagee holding the First Mortgage.
- g. No transfer of any direct or indirect ownership interest in the Company may be made such that the transferee owns, in the aggregate with the ownership interests of its affiliates and family members in the Company, more than a 49% interest in the Company, unless such transfer is conditioned upon the delivery of an acceptable non-

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consolidation opinion to the holder of the First Mortgage and to any applicable rating agency concerning, as applicable, the Company, the new transferee and/or their respective owners.

6. **Indemnification.** Any indemnification of the Company's members shall be fully subordinated to any obligations respecting the Property (including, without limitation, the First Mortgage); and, such indemnification shall not constitute a claim against the Company in the event that cash flow necessary to pay holders of such obligations is insufficient to pay such obligations.
7. **Separateness Covenants.** For so long as the First Mortgage exists on any portion of the Property, in order to preserve and ensure its separate and distinct limited liability company identity, in addition to the other provisions set forth in these articles of organization, the Company shall conduct its affairs in accordance with the following provisions:
  - a. It shall establish and maintain an office through which its business shall be conducted separate and apart from those of any affiliate(s) or, if it shares office space with its parent or any affiliate(s), it shall allocate fairly and reasonably any overhead and expense for shared office space.
  - b. It shall not own and will not own any asset or property other than
    - i. the Property and
    - ii. incidental personal property necessary for the ownership or operation of the Property.
  - c. It will not engage, directly or indirectly, in any business other than the ownership, management and operation of the Property and it will conduct and operate its business as presently conducted and operated.
  - d. It will not enter into any contract or agreement with its parent, any affiliate of the Company or any constituent party of the Company except upon terms and conditions that are commercially reasonable and substantially similar to those that would be available on an arms-length basis with unrelated third parties.
  - e. It has not incurred and will not incur any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than
    - i. the indebtedness secured by the mortgage lien and
    - ii. trade payables or accrued expenses incurred in the ordinary course of the business of operating the property with trade creditors and in amounts as are normal and reasonable under the circumstances.No indebtedness other than the indebtedness secured by the mortgage lien may be secured (subordinate or par passu) by the Property.
  - f. It has not made and will not make any loans or advances to any third party, including any affiliate of the Company or constituent party of the Company and shall not acquire obligations or securities of its affiliate(s).
  - g. It is and will remain solvent and will pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall become due.
  - h. It has done or caused to be done and will do all things necessary to observe organizational formalities and preserve its existence, and it will not amend, modify or otherwise change the articles of organization and/or operating agreement without the prior written consent of the mortgage lien holder or, after the securitization of the Loan-

only if the Company receives

- i. confirmation from each of the applicable rating agencies that such amendment would not result in the qualification, withdrawal, or downgrade of any securities rating and
- ii. approval of such amendment by the mortgagee holding the First Mortgage.
- i. It will maintain all of its books, records, financial statements and bank accounts separate from those of its affiliate(s) and any constituent party and the Company will file its own separate tax returns. It shall maintain its books, records, resolutions and agreements as official records.
- j. It will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity (including any affiliate or any constituent party of the Company), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct and operate its business in its own name, shall not identify itself or any of its affiliates as a division or part of the other and shall maintain and utilize a separate telephone number and separate stationery, invoices and checks.
- k. It will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations.
- l. Neither the Company nor any constituent party will seek or permit the dissolution, winding up, liquidation, consolidation or merger in whole or in part, of the Company, or acquire by purchase or otherwise all or substantially all the business or assets of, or any stock or other evidence of beneficial ownership of any other person or entity.
- m. It will not commingle the funds and other assets of the Company with those of any affiliate or constituent party, or any affiliate of any constituent party, or any other person.
- n. It has and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual asset or assets, as the case may be, from those of any affiliate or constituent party, or any affiliate of any constituent party, or any other person.
- o. It shall not pledge its assets and does not and will not hold itself out to be responsible for the debts or obligations of any other person.
- p. It shall pay any liabilities out of its own funds, including salaries of any employees.
- q. The Company shall maintain a sufficient number of employees in light of its contemplated business operations.
- r. The Company shall not guarantee or become obligated for the debts of any other entity or person.
- s. It shall have a corporate manager which shall be organized to be a single purpose, "bankruptcy remote" entity.

For purpose of this Article VII, the following terms shall have the following meanings:

- i. *affiliate* means any person controlling or controlled by or under common control with the Company, including, without limitation
  - (1) any person who has a familial relationship, by blood, marriage or otherwise with any member or employee of the Company, its parent, or any affiliate thereof and
  - (2) any person which receives compensation for administrative, legal or accounting services from the Company, its parent or any affiliate.

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For purposes of this definition, "control" when used with respect to any specified person, means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

- ii. *parent* means, with respect to a corporation, any other corporation owning or controlling, directly or indirectly, fifty percent (50%) or more of the voting stock of the corporation.
- iii. *person* means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization, or government or any agency or political subdivision thereof.

  
Signature of a member or an  
authorized representative of a member.

(In accordance with section 608.408(3), Florida Statutes, the execution of this affidavit constitutes an affirmation under the penalties of perjury that the facts stated herein are true.)

STEVAN J. PARDO  
Typed or printed name of signee

Date: February 19, 2001

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 19 day of February, 2001, by

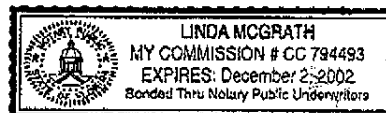
Stevan J. Pardo

☒ personally known to me.  
☐ produced \_\_\_\_\_ as identification.

☐ took an oath.

Linda McGrath Notary Public, Commission No. 794493  
(Signature)

Linda McGrath (Name of Notary typed, printed or stamped)



Amended and Restated Articles of Organization  
Riverwalk Hotels, LLC Page 6 of 6

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