

L05000069821

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP

☐ WAIT

☐ MAIL

(Business Entity Name)

(Document Number)

Certified Copies _____ Certificates of Status _____

Special Instructions to Filing Officer:

Office Use Only



700057578397

07/25/05--01024--013 **60.00

FILED
05 JUL 25 PM 1:56
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

RECEIVED
05 JUL 25 AM 11:16
DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

CAPITAL CONNECTION, INC.

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

Montecito Deauville Management
Company LLC

FILED
05 JUL 25 PM 1:56
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

- ☐ 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

Signature

Requested by:

Name

Date

Time

Walk-In

Will Pick Up

Courier

**ARTICLES OF AMENDMENT
TO
ARTICLES OF ORGANIZATION
OF
MONTECITO DEAUVILLE MANAGEMENT COMPANY LLC
(a Florida limited liability company)**

FILED
05 JUL 25 PM 1:56
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

FIRST: The Articles of Organization of Montecito Deauville Management Company LLC (the "Company") were filed on July 15, 2005 and assigned document number L05000069821.

SECOND: The following amendments to the Articles of Organization were adopted by the unanimous written consent of all the Members of the Company.

(A) Article III of the Company's Articles of Organization is deleted in its entirety and in its place the following is substituted:

ARTICLE III

The purpose for which this Limited Liability Company is organized is to engage solely in the activity of acting as the general partner of Montecito Deauville Limited Partnership, a Florida limited partnership (the "Partnership"), whose purpose is to acquire, improve, finance and operate an apartment community commonly known as "Deauville", located at 8665 Burton Way, Los Angeles, California (the "Property"); to convert the existing apartments on the Property to condominiums and sell such condominiums; if and when appropriate (but subject to the restrictions of its partnership agreement) to sell the Property; and to engage in any and all activities related and incidental to the foregoing. The Limited Liability Company shall exercise all powers enumerated in the Florida Limited Liability Company Act incidental, necessary or appropriate to the conduct, promotion or attainment of the business and purposes set forth herein.

(B) Article VI is added to the Company's Articles of Organization as follows:

ARTICLE IX

A. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Limited Liability Company to the contrary, the following shall govern: The Limited Liability Company shall only incur or cause the Partnership to incur indebtedness in an amount necessary to acquire, operate, maintain and renovate the Property and convert the apartment units therein to condominium units and sell the same. For so long as any mortgage lien exists on the Property, the Limited Liability Company shall not, and shall not cause the Partnership to, incur, assume, or guaranty any other indebtedness, except for indebtedness described in §3.3(C), §6.1(C)(ii) and the last paragraph of §5.2 of the Partnership's partnership agreement. Except as provided in this Article VI, the Limited Liability Company shall not, and shall not cause the Partnership to, engage in, seek or consent to any dissolution, winding up, liquidation, consolidation, merger, asset sale (except for sales of condominium units and appurtenant facilities in the ordinary course of business and for

the minimum gross square foot price permitted under §6.1(C)(i) of the Partnership's partnership agreement) or transfer of partnership interest of the Partnership (except as permitted under Article VIII of the Partnership's partnership agreement). For so long as a mortgage lien exists on the Property, the Limited Liability Company shall not, and shall not cause the Partnership to, without the unanimous consent of all of the partners of the Partnership and all the managers of the Limited Liability Company, including the Independent Manager: (i) file or consent to the filing of any bankruptcy, insolvency or reorganization case or proceeding; 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, (ii) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for itself or any other entity, (iii) make an assignment of its assets for the benefit of its creditors or an assignment of the assets of another entity for the benefit of such entity's creditors, or (iv) take any action in furtherance of the foregoing.

B. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Limited Liability Company to the contrary, the following shall govern: Any indemnification shall be fully subordinated to any obligations respecting the Partnership or the Property and, so long as and to the extent that the Partnership's cash flow is insufficient to pay such obligations, shall not constitute a claim against the Limited Liability Company.

C. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Limited Liability Company to the contrary, the following shall govern: For so long as any mortgage lien exists on the Property, in order to preserve and ensure its separate and distinct corporate identity, in addition to the other provisions set forth in the Limited Liability Company's Articles of Organization, the Limited Liability Company shall conduct its affairs in accordance with the following provisions:

(1) The Managers of the Limited Liability Company shall include at least one individual who is an Independent Manager. As used herein, an "Independent Manager" shall be an individual who is not at the time of initial appointment, or at any time while serving as a Manager of the Limited Liability Company, and who has not been at any time during the preceding five (5) years: (a) a stockholder, director, member, manager (with the exception of serving as the Independent Manager of the Limited Liability Company), officer, employee, partner, attorney or counsel of the Limited Liability Company, the Partnership or any affiliate of either of them; (b) a customer, supplier or other person who derives any of its purchases or revenues from its activities with the Limited Liability Company, the Partnership or any affiliate of either of them; (c) a person or other entity controlling or under common control with any such stockholder, director, member, manager, partner, customer, supplier or other person; or (d) a member of the immediate family of any such stockholder, director, member, manager, officer, employee, partner, customer, supplier or other person. (As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a person or entity, whether through ownership of voting securities by contract or otherwise).

(2) It shall establish and maintain an office at the Property through which its business shall be conducted separate and apart from those of its parent and any affiliate (other than the Partnership) and shall allocate fairly and reasonably any overhead for shared office space between the Limited Liability Company and the Partnership.

(3) It shall maintain separate corporate records, books and accounts from those of its parent and any affiliate or any other person.

(4) It shall not commingle funds or assets with those of its parent, any affiliate or any other person.

(5) It shall conduct its business and hold its assets in its own name.

(6) It shall maintain financial statements, accounting statements and prepare tax returns separate from its parent, any affiliate or any other person.

(7) It shall pay any liabilities out of its own funds (including salaries of any employees), not funds of its parent or any affiliate and maintain a sufficient number of employees in light of its contemplated business operations.

(8) It shall maintain adequate capital in light of its contemplated business operations.

(9) It shall maintain an arm's length relationship with its parent and any affiliate (except as provided in §6.1(G) of the Partnership's partnership agreement).

(10) It shall not assume or guarantee or become obligated for the debts of any other entity, including its parent or any affiliate or hold out its credit as being available to satisfy the obligations of others (except as specified in §3.3(C) and the last paragraph of §5.2 of the Partnership's partnership agreement).

(11) It shall not have any of its obligations guaranteed by any member, general partner or affiliate, except the guarantor(s) of the mortgage loan and except as specified in §3.3(C) and the last paragraph of §5.2 of the Partnership's partnership agreement.

(12) It shall not pledge its assets for the benefit of any other person or entity or make an advance or loan to any person or entity, including any affiliate, except as specified in §3.3(C) and the last paragraph of §5.2 of the Partnership's partnership agreement.

(13) It shall not acquire obligations or securities of its members or any affiliate, except for its ownership of limited partnership interests in the Partnership.

(14) It shall use stationery, invoices and checks separate from any affiliate or any other person.

(15) It shall hold itself out as an entity separate and distinct from any affiliate and not as a division, department or part of any other person or entity.

- (16) It shall not identify its members or any affiliates as a division or part of it.
- (17) It shall correct any known misunderstanding regarding its separate identity.
- (18) It shall maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other entity.
- (19) It shall not share a common logo with any affiliate or any other person.
- (20) It shall not acquire or own any material assets other than its general and limited partnership interests in the Partnership.
- (21) It shall maintain its books, records, resolutions and agreements as official records.
- (22) It shall hold regular meetings or obtain written consents, as appropriate, to conduct its business and observe all limited liability company level formalities and record keeping.
- (23) Its Managers shall hold appropriate meetings (or act by unanimous consent) to authorize all appropriate corporate actions, and in authorizing such actions, shall observe all corporate formalities.

D. For purposes of this Article VI, the following terms shall have the following meanings:

“affiliate” means any person controlling or controlled by or under common control with the parent, including, without limitation (i) any person who has a familial relationship, by blood, marriage or otherwise with any manager, member, officer or employee of the Limited Liability Company, its parent, or any affiliate thereof and (ii) any person which receives compensation for administrative, legal or accounting services from this Limited Liability Company, its parent or any affiliate. 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.

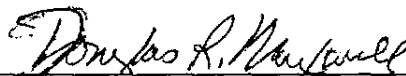
“parent” means, with respect to an entity, any other entity owning or controlling, directly or indirectly, fifty percent (50%) or more of the voting stock of the Limited Liability Company.

“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.

E. Notwithstanding any provision hereof or of any other document governing the formation, management or operation of the Limited Liability Company to the contrary, the

following shall govern: When the first mortgage loan on the Property has been paid in full and the lien thereof has been discharged or if the first mortgage loan on the Property shall be held by a lender other than CapitalSource Finance LLC and such lender gives the Limited Liability Company written notice of its willingness to forego the provisions of this Article VI, then the Independent Manager shall resign and this Article VI may be deleted by appropriate act of the Limited Liability Company's managers and members. Until such time, however, the Limited Liability Company shall not amend its Articles of Organization without the prior written consent of the holder of the first mortgage loan on the Property.

IN WITNESS WHEREOF, the undersigned officer of the Company and authorized representative of the Company's Members executed this Amendment to Articles of Organization for the purpose of amending the Articles of Organization of this Company under the laws of the State of Florida, and does hereby make, subscribe, acknowledge and file in the office of the Secretary of State, State of Florida, this Amendment to Articles of Organization and does certify the facts herein stated are true, all on this 22nd day of July, 2005.



Name: Douglas R. Maxwell

Title: Vice President and Assistant
Secretary of Montecito Deauville
Management Company LLC;
authorized representative of
its Members