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**FLORIDA PROFIT/NON PROFIT CORPORATION
FRUITVILLE COMMONS BLOCK B-4 SUB-ASSOCIATION, INC.**

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FLORIDA DEPARTMENT OF STATE
Division of Corporations

March 18, 2021

CSC

SUBJECT: FRUITVILLE COMMONS BLOCK B-4 SUB-ASSOCIATION, INC.
Ref. Number: W21000036026

We have received your document for FRUITVILLE COMMONS BLOCK B-4 SUB-ASSOCIATION, INC. . However, the enclosed document has not been filed and is being returned to you for the following reason(s):

The document must have original signatures.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

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Carlos E Rico
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TALLAHASSEE, FLORIDA

**ARTICLES OF INCORPORATION
OF
FRUITVILLE COMMONS BLOCK B-4 SUB-ASSOCIATION, INC.,
A FLORIDA NOT-FOR-PROFIT CORPORATION**

The undersigned hereby incorporates for the purpose of becoming a not-for-profit corporation under the laws of the State of Florida, by and under the provisions of the statutes of the State of Florida, providing for the formation, immunities, liability, privileges, and rights of a not-for-profit corporation.

**ARTICLE I
NAME, OFFICE, AND REGISTERED AGENT**

1.1 **Name.** The name of this corporation shall be "Fruitville Commons Block B-4 Sub-Association, Inc.," a Florida not-for-profit corporation (hereinafter referred to as the "Association").

1.2 **Office.** The street address of the initial principal office and mailing address of the Association is: 2639 Professional Circle, Suite 101, Naples, Florida 34119.

1.3 **Initial Registered Agent.** The initial registered agent for the Association is: Coleman, Yovanovich and Koester, P.A., 4001 Tamiami Trail North, Suite 300, Naples, Florida 34103.

**ARTICLE II
DEFINITIONS**

2.1 The words used in these Articles of Incorporation ("Articles") shall be given their normal, commonly understood definitions. Unless defined in these Articles, capitalized terms shall have the same meanings as used in the "Declaration of Condominium of the Fruitville Commons Land Condominium, as supplemented by that certain "Supplement to Declaration of Condominium for the Fruitville Commons Land Condominium, Sub-Area Block B-4" ("Supplement"), all as it may be amended or supplemented from time to time (collectively, the "Declaration").

**ARTICLE III
PURPOSE**

3.1 The general nature of the business to be conducted by the Association shall be the operation and management of the affairs and property subject to the Supplement ("Block B-4 Property"), including, but not limited to and without limitation:

3.1.1 To operate as a not-for-profit corporation pursuant to Chapter 617, *Fla. Stat.* The Association does not contemplate pecuniary gain or profit to the Members thereof.

3.1.2 To administer, enforce, and carry out the terms and provisions of the Supplement, as same may be amended or supplemented from time to time, and to exercise such powers and perform such other duties and discharge such other responsibilities as may be imposed upon, or assigned, delegated, or granted to, or otherwise permitted to be exercised by, the Association pursuant to the Declaration and any amendment or supplement thereto.

3.1.3 To provide for maintenance and preservation of such portions of the Block B-4 Property referred to in the Supplement as the "Sub-Area B-4 Common Area", and any additions thereto as may hereafter be brought within the jurisdiction of the Association, pursuant to the Declaration and any amendment or supplement thereto.

3.1.4 To manage and maintain the Sub-Area B-4 Common Area.

ARTICLE IV **POWERS**

4.1 **General Powers.** The Association shall have all of the common law and statutory duties, powers, and privileges of a Florida not-for-profit corporation, and the duties, powers, and privileges set forth in the Declaration which are not in conflict with the terms of these Articles.

4.2 **Specific Powers.** In addition to the aforementioned general powers, the Association shall have all of the powers and duties reasonably necessary to maintain, manage, and operate the Association, including but not limited to and without limitation, the following:

4.2.1 To enter into, establish, and enforce agreements, bylaws, covenants, restrictions, and/or rules and regulations appropriate and/or necessary to carry out the purposes of the Association, and as may be otherwise contemplated, permitted, and/or required by the Association.

4.2.2 To make and collect Assessments against Members to defray the costs, expenses, losses, and/or reserves incurred in the management, maintenance, operation, repair, and replacement of the property and facilities serving the Block B-4 Property, and any additions thereto as may hereafter be brought within the jurisdiction of the Association, pursuant to the Declaration and any amendment or supplement thereto.

4.2.3 To make and collect Assessments against Members to defray the costs, expenses, losses, and/or reserves incurred in the management, maintenance, operation, repair, and replacement of the Sub-Area B-4 Common Area.

4.2.4 To use the proceeds of Assessments in the exercise of its powers and duties.

4.2.5 If provided in the Declaration or the Bylaws, to charge interest and late charges on delinquent or past-due Assessments, and to accelerate the Assessments of a Member who is delinquent in payment of any installment of Assessments.

4.2.6 To hold funds for the exclusive benefit of the Members of the Association, as set forth in these Articles and as provided in the Declaration and/or the Bylaws.

4.2.7 To purchase insurance upon the Sub-Area B-4 Common Area, and any improvements thereon, and insurance for the protection of the Association, its Board (directors, officers, committee members, and/or members of boards appointed by the Board), Members, and such other parties as the Association may determine to be in the best interests of the Association.

4.2.8 To administer, convey, improve, lease, own, maintain, manage, mortgage, operate, purchase, repair, replace, and/or sell real and/or personal property on behalf of the Association, including, but not limited to and without limitation, Units.

4.2.9 To administer, install, maintain, manage, operate, repair and/or replace the Sub-Area B-4 Common Area, and any improvements thereon, and such other portions of the Block B-4 Property as may be determined appropriate and/or necessary by the Board from time to time, in accordance with, or as may be otherwise contemplated, permitted, and/or required by the Declaration.

4.2.10 To make, amend, and enforce reasonable Bylaws respecting the use and occupancy of the Sub-Area B-4 Common Area, and any improvements thereon, for the health, comfort, safety, and welfare of the Members. All such Bylaws, and amendments or supplements thereto, shall be approved by the Board in accordance with the Declaration and the Bylaws.

4.2.11 To enforce by legal means the provisions of the Supplement, these Articles, and the Bylaws.

4.2.12 To perform all acts necessary to comply with the provisions of the Declaration, these Articles, and the Bylaws, and to act with all powers enumerated therein.

4.2.13 To exercise when assigned or designated by the Declarant, the design review over all buildings, improvements, and/or structures to be placed or constructed upon any portion of the Block B-4 Property which is subject to the Declarant's design review. Such control shall be exercised pursuant to the Declaration.

4.2.14 To provide for such services within the Block B-4 Property as the Board in its discretion determines appropriate and/or necessary.

4.2.15 To contract for the maintenance, management, and/or operation of the Sub-Area Block B-4 Common Area and any improvements thereon, and to delegate to such contractor(s) all powers and duties of the Association, except to the extent as such are specifically required by the Declaration to have the approval of the Declarant, the Board and/or Members.

4.2.16 To contract with and authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions which may include but shall not be limited to: enforcing the Bylaws, collecting Assessments, preparing records, procuring bids, and/or maintaining, repairing, and/or replacing the Sub-Area B-4

Common Area and any improvements thereon, with such funds as shall be made available by the Association for such purposes.

4.2.17 To employ personnel necessary to perform the duties, obligations, and/or services required of, or to be performed by, the Association for the proper maintenance, management, and operation of the Sub-Area B-4 Common Area and any improvements thereon, and/or to contract with others for the performance of such obligations, services and/or duties and to pay the cost thereof in accordance with whatever reasonable contractual arrangement the Board shall enter into.

4.2.18 To obtain loans to provide funds for improving, maintaining, operating, repairing, and/or replacing the Sub-Area B-4 Common Area and any improvements thereon, and to pledge the income of the Association from Assessments as security for such loans.

4.2.19 To honor and perform under all contracts and agreements entered between third-parties and the Association, or third-parties and the Declarant which are assigned to the Association.

4.2.20 To sue and be sued and to defend the same as provided for by Florida law and/or in the Declaration.

ARTICLE V **MEMBERS**

5.1 Each owner of a Unit within the Block B-4 Property ("Block B-4 Owner") shall be a Member of the Association.

ARTICLE VI **VOTING RIGHTS**

6.1 **Number of Votes.** Members' voting rights shall be determined based on a relative acreage basis as set forth in the Supplement, as it may be amended from time to time.

6.2 **Voting by Co-Owners.** If a Unit is owned by more than one (1) Person, all co-Owners shall share the voting privileges of such membership as a single member, subject to reasonable Board regulation and the restrictions on voting set forth in these Articles in and in the Bylaws.

6.3 **Proxies.** Except as otherwise specifically set forth in the Declaration or these Articles, every Member of the Association that is entitled to vote at a meeting of the Members or to otherwise express consent or dissent without a meeting, may authorize another person to act on the Member's behalf by a proxy signed by such Member. Directors may not vote by proxy.

Any proxy shall: be in writing; be dated; specify the Unit(s) for which it is given; state the date, time, and place of the meeting for which it is given; be signed by the Member or her/his duly authorized attorney-in-fact; and be provided to the Association's Secretary, or the person

acting as Secretary at the meeting, at or prior to the time designated in the order of business for so delivering such proxies. A proxy is only effective for the specific meeting and/or vote for which it was given, and as the meeting and/or vote may law fully be reconvened from time to time. However, a proxy automatically expires ninety (90) calendar days after the original date of the meeting and/or vote for which it was given; unless a shorter period is specified in the proxy. Unless otherwise specifically provided for in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast for the specified Unit(s), and in the event of any conflict between two (2) or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both proxies shall be deemed invalid.

Every proxy shall be freely revocable by the Member executing it at any time prior to the specific meeting and/or vote for which it was given, and shall automatically cease upon: (a) receipt by the Secretary of written notice of revocation of the proxy, (b) conveyance of any Unit for which it was given, (c) the death of the Member giving the proxy, (d) the judicially declared incompetence of a Member who is a natural person, and/or (e) ninety (90) calendar days after the original date of the meeting and/or vote for which it was given.

6.4 **Calculation of Votes.** Any question concerning the number of votes which may be cast by a Member shall be decided by a majority of the Board.

ARTICLE VII **BOARD OF DIRECTORS**

7.1 **Members of the Board.** The Association's affairs shall be managed by a Board consisting of three (3) members. Board members shall be appointed, elected, or removed as follows:

7.1.1 **Appointed by the Declarant.** Until the earlier of (a) the date Declarant no longer owns any property in Block B-4 Property, or (b) the date Declarant determines, in its sole and absolute discretion ("Block B-4 Turnover"), the Declarant shall have the right to appoint all Board members (in Declarant's sole and absolute discretion) and such Board members shall serve at the pleasure of the Declarant.

7.1.2 **Appointment by Members.** Following Block B-4 Turnover, each Block B-4 Owner shall have the right to appoint one (1) member of the Board.

7.2 **Exercise of Duties and Powers.** All of the duties and powers of the Association existing under Chapter 617, *Fla. Stat.*, the Declaration, these Articles, and the Bylaws shall be exercised exclusively by the Board (its directors, officers, committee members, and/or members of a board appointed by the Board) and shall only be subject to approval by the Members when expressly required under the Declaration or Statutes.

7.3 **Initial Board Members.** The names and addresses of Board members who shall hold office until they are removed or their successors are elected are:

<u>Name</u>	<u>Office</u>	<u>Address</u>
Keith Gelder	Director	2639 Professional Circle, Suite 101 Naples, Florida 34119
Chris Johnson	Director	2639 Professional Circle, Suite 101 Naples, Florida 34119
John Ferry	Director	2639 Professional Circle, Suite 101 Naples, Florida 34119

ARTICLE VIII **OFFICERS**

8.1 The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the members of the Association, and they shall serve at the pleasure of the Board.

ARTICLE IX **INDEMNIFICATION OF DIRECTORS AND OFFICERS**

9.1 **Indemnification and Defense of Directors, Officers, and other Agents of the Board.** As limited in this §9.1, the Association shall indemnify, defend, and hold harmless any Person from and against any liability, when the Person was or is a party or is threatened to be made a party, to any contemplated, pending, or threatened action or proceeding (whether civil or criminal) by reason of the fact that such Person is or was the Association's: director, officer, committee member, member of a subordinate board, and/or direct employee (expressly meaning to exclude any agents hired by the Association to perform services and/or provide goods, e.g., a management company and its employees). Such Persons shall not be personally liable for any mistake of judgment - negligent or otherwise - or with respect to any contract or other commitment made or action taken, which was made in good faith on behalf of the Association, and the Association shall indemnify, defend, and hold harmless such Persons from any liability and reasonable expenses actually incurred which results from such conduct. This indemnity, defense, and hold harmless obligation includes all costs, expenses, and fees incurred by the Person incident to an action or proceeding, but not limited to and without limitation: (a) damages claimed against the Person; (b) fines levied against the Person; (c) judgments entered against the Person; (d) reasonable Attorneys' Fees and Costs; and (e) settlement amounts actually and reasonably incurred by the Person (provided the Association was given reasonable written notice of, an opportunity to participate in, the settlement). For any civil action or proceeding, this indemnity, defense, and hold harmless obligation only applies if the Person's alleged conduct was performed in good faith and in a manner the Person reasonably believed to be in, or not opposed to, the best interest of the Association. For any criminal action or proceeding, this indemnity, defense, and hold harmless obligation only applies if either: the Person is adjudicated not guilty; the Person had no reasonable cause to believe the alleged conduct was unlawful; or

upon such Person being adjudicated guilty of gross negligence (or an equivalent or lesser *mens rea*) in the performance of the Person's duty to the Association, then only to the extent the Board determines that despite the guilty adjudication in view of all the circumstances of the case such Person should fairly and reasonably be indemnified (and in such cases only for such expenses which the Board shall deem proper). This indemnity, defense, and hold harmless obligation only applies to the extent the Person remains personally liable, and shall be deemed waived if the Person fails to participate in good faith in the defense of the liability (e.g. waiver will occur if the Person enters into any agreement whereby the Person seeks to limit and/or avoid her/his own personal liability in a manner adverse to the Association's interests). This indemnity, defense, and hold harmless obligation shall not be construed to require the Association to reimburse any insurance company or surety claiming subrogation for any fees and/or costs incurred in defending the Person under an insurance policy or bond.

9.2 **Advances Under A Reservation of Rights.** Any costs, expenses, and fees incurred pursuant to this Article IX in defending any Person in a civil or criminal action or proceeding which are expended by the Association under a reservation of rights and in advance of the final disposition of such action or proceeding, shall be reimbursed by the Person to the Association if a Court ultimately determines that the Person was not entitled to defense and/or indemnification of the subject action or proceeding pursuant this Article IX.

9.3 **Non-Exclusivity and Survival.** The indemnification, defense, and hold harmless rights provided by this Article IX shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the Applicable Law, Declaration, Bylaws, any agreement, or otherwise. The indemnification, defense, and hold harmless rights provided by this Article IX shall: (a) continue as to any Person who has ceased to hold the position, but only for claims, causes of action, and/or other such liabilities which accrued during the period in which s/he held the position; and (b) shall inure to the benefit of the administrators, executors, and/or heirs of such Person to the same extent as would otherwise be held by the Person if still alive.

9.4 **Insurance.** The Association shall have the power (but not the obligation) to purchase and maintain insurance on behalf of any Person who is or was a director, officer, committee member, member of a subordinate board, and/or agent or employee of the Association, or is or was serving at the request of the Association as a director, officer, committee member, member of a subordinate board, and/or agent or employee of another corporation, joint venture, partnership, trust, or other enterprise, against any liability asserted against the Person arising out of any such capacity – regardless of whether the Association would have the obligation or power to indemnify the Person against such liability under the provisions of this Article IX.

9.5 **Amendments.** Notwithstanding anything to the contrary in these Articles, the provisions of this Article IX may not be amended and/or supplemented without the prior written consent of all Members whose interest would be adversely affected by such amendment and/or supplement.

9.6 **Indemnity, Defense, and Hold Harmless by Owners.** Each Owner shall indemnify, defend, and hold harmless the Association (and its directors, officers, committee

members, members of subordinate boards, and/or agents and employees) from and against any damages, expenses, and other liabilities which they may incur as a result of such Owner's (and/or its Permittees') failure to comply with the Association's Governing Documents, including but not limited to and without limitation: (a) any incurred costs and fees for third-parties to investigate and/or correct the violation, (b) reasonable Attorneys' Fees and Costs; and (c) reasonable administrative fees of the Declarant.

ARTICLE X **BYLAWS**

10.1 The initial Bylaws of the Association shall be adopted by the Board and may be altered, amended, and/or rescinded in the manner provided by the Bylaws.

ARTICLE XI **INCOME DISTRIBUTION**

11.1 No part of the income of the Association shall be distributable to its directors, Members, or officers, except as commercially reasonable compensation for services rendered.

ARTICLE XII **AMENDMENTS**

12.1 **Amendments.** Amendments to these Articles shall be proposed and adopted in the following manner.

12.1.1 **Initiation.** These Articles shall not be amended without the written consent of the Declarant until the B Block B-4 Turnover. A resolution to amend these Articles may be proposed by any Member of the Association.

12.1.2 **Notice.** Notice of the subject matter of a proposed amendment to these Articles shall be included in the notice for any meeting at which a proposed amendment is considered.

12.1.3 **Adoption.**

- (a) Until the Block B-4 Turnover, the Declarant shall have the right to unilaterally amend these Articles without the joinder or approval of any Member or any other person.
- (b) After the Block B-4 Turnover, a resolution by the Board for the adoption of a proposed amendment to these Articles shall be adopted by the affirmative vote and/or written consent of Members representing greater than fifty-percent (50%) of the votes in the Association; provided written joinder by the Declarant shall be required so long as Declarant owns any property within the Total Property.

- (c) No amendment shall make any changes in the qualification for membership, in the voting rights and/or property rights of Members, or of this **Article XII**, without the approval of all Members affected by such amendment.

12.1.4 Recording. Upon the approval of an amendment to these Articles, the amendment shall be executed and delivered to the Florida Secretary of State as provided by law, and a copy certified by the Secretary of State shall be recorded in the County's official public records as a Supplement to the Declaration.

ARTICLE XIII
TERM

13.1 The Association shall exist perpetually, unless voluntarily dissolved by the Members according to the Declaration and Applicable Law.

ARTICLE XIV
INCORPORATOR

14.1 The name and street address of the incorporator is:

Keith Gelder
SD Fruitville Commons, LLC
2639 Professional Circle, Suite 101
Naples, Florida 34119

{SIGNATURES COMMENCE ON FOLLOWING PAGES}

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IN WITNESS WHEREOF, for the purpose of forming this not-for-profit corporation under the laws of the State of Florida, the undersigned, constituting the incorporator of this Association, has executed these Articles of Incorporation this 16th of March, 2021.

Signed and delivered in the presence of:

[Signature]
Witness

CHRISTOPHER L. JOHNSON
Printed Name

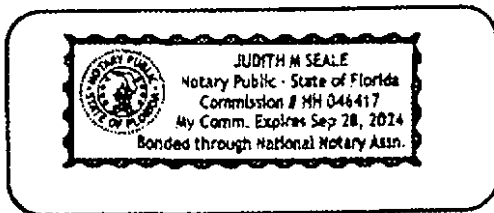
[Signature]
Witness

Veronica Salazar
Printed Name

By: [Signature]
Keith Gelder, Incorporator

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 16 day of March, 2021, by Keith Gelder. He ☒ is personally known to me or ☐ has produced _____ as identification, and did not take an oath.



Notary Stamp

Judith M. Seale
Signature of Notary
Judith M. Seale
Print Name of Notary

My Commission Expires:

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TALLAHASSEE, FLORIDA

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ACCEPTANCE BY REGISTERED AGENT

Having been named as registered agent to accept service of process for the above-stated corporation at the place designated in these Articles of Incorporation, I hereby accept the appointment to act in this capacity and acknowledge that I am familiar with and agree to accept the obligations imposed upon registered agents under the Florida Not-For-Profit Corporation Act.

COLEMAN, KOVANOVICH & KOESTER, P.A.

Craig D. Grider, Esq.

Dated: 3/18/2021

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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