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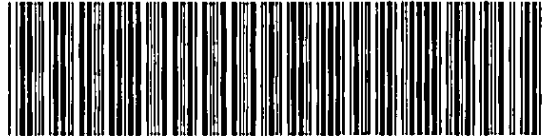
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*Amended &  
Restated  
Articles*

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2021 MAY -7 11:51

JUN 2 3 2021

A RAMSEY

## COVER LETTER

Department of State  
Amendment Section  
Division of Corporations  
P. O. Box 6327  
Tallahassee, FL 32314

**SUBJECT:** Colonial Gateway Commerce Park Phase 2 Owners Association, Inc.

CORPORATE NAME

Enclosed are an original and one (1) copy of the restated articles of incorporation and a check for:

☒ \$35.00  
Filing Fee

☐ \$43.75  
Filing Fee  
& Certificate of Status

☐ \$43.75  
Filing Fee  
& Certified Copy

☐ \$52.50  
Filing Fee,  
Certified Copy  
& Certificate of  
Status

**ADDITIONAL COPY REQUIRED**

**FROM:** George L. Consoer, Jr.

Name (Printed or typed)

3427 McGregor Blvd.

Address

Ft. Myers, FL. 33901

City, State & Zip

239-337-2504

Daytime Telephone number

wkbeck50@gmail.com

E-mail address: (to be used for future annual report notification)

*Also enclosed: self-addressed stamped return envelope*

**NOTE: Please provide the original and one copy of the document.**

**AMENDED AND RESTATED**  
**ARTICLES OF INCORPORATION**  
**OF**

**COLONIAL GATEWAY COMMERCE PARK PHASE 2**  
**OWNERS ASSOCIATION, INC.**

Pursuant to the provisions of Chapter 617 of Florida Statutes, the undersigned Incorporator hereby adopts the following Articles of Incorporation as follows:

**ARTICLE I - NAME**

1.01 The name of this corporation is Colonial Gateway Commerce Park Phase 2 Owners Association, Inc. For convenience, the corporation may be referred to in this instrument as the "Association", these Articles of Incorporation as the "Articles", the Bylaws of this Association as the "Bylaws" and the Declaration of Covenants, Conditions, and Restrictions For Colonial Gateway Commerce Park" as the "Declaration". The Declaration, Articles, and Bylaws may be referred to as the "Governing Documents".

**ARTICLE II - PRINCIPAL OFFICE**

2.01 The street address of the initial principal office of this corporation shall be 6908 Erin Marie Ct., Fort Myers, Florida 33919.

**ARTICLE III - PURPOSES**

3.01 The purposes for which this Association is organized is to provide for the maintenance, preservation, architectural control of the Lots, Parcels, Appurtenances, Surface Water Management System, and Common Area now and hereinafter included within that certain real estate subdivision development generally known as "Colonial Gateway Commerce Park Phase 2" (the "Development"); to promote the health, safety, and welfare of the property owners within the above described real estate Development; and to exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as defined and set forth in that certain Declaration of Covenants, Conditions, and Restrictions for said Development (the "Declaration"), as may be amended from time to time, including the establishment and enforcement of payment of assessments contained therein, and to engage in such other lawful activities as may be to the mutual benefit of all Members of the Association. All terms used herein which are defined in the Declaration shall have the same meaning herein.

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## **ARTICLE IV - POWERS**

4.01 The Association shall have all powers provided in the Declaration, as may be amended from time to time, as well as all powers permitted under Florida law for corporations not-for-profit, including, but not limited to, the following:

a. To exercise all of the powers and privileges, and to perform all of the duties and obligations, of the Association as set forth in the Declaration as the same may be amended from time to time;

b. To fix and make assessments against each Lot included in the development and collect the assessments against the Lots, together with the cost of collection, including a reasonable attorneys fee and interest thereon from the date due at the maximum rate then allowed by law, from the Lot and/or Parcel Owners thereof by any lawful means, including the foreclosure of the lien which the Association has against the Lot for the payment of assessments;

c. To pay all expenses in connection therewith, and all office and other expenses incidental to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied on or imposed against the property of the Association;

d. To acquire (by gift, purchase, or otherwise), own, hold, and improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real and personal property in connection with the affairs of the Association;

e. Dedicate, sell, or transfer all or any part of the Common Areas as same are defined in the Declaration to any municipality, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the Association;

f. To operate and maintain the Common Area, specifically including, but not limited to, the storm water management system as permitted by the South Florida Water Management District, including all lakes, retention areas, landscaping, buffer, conservation easements and areas, conveyances, culverts, and all related appurtenances;

g. To make, amend, impose and enforce by any lawful means, reasonable rules and regulations with respect to the use of the Common Areas and Association property;

h. To sue and be sued;

i. To contract with others to do and perform any of the functions and obligations of the Association; including services necessary to operate and maintain the storm water management system;

j. To borrow money from such lenders and upon such terms as the Association may deem appropriate and hypothecate any or all of the Association's real or personal property as security for money borrowed or debts incurred, including the right of the Association to make and collect assessments, as security for the repayment thereof;

k. To use and expend the proceeds of assessments and borrowings to pay the debts and obligations of the Association and otherwise in a manner consistent with the purposes for which this Association is formed;

l. To review the plans and specifications of proposed improvements intended to be constructed on any parcel or Common Area to determine whether they comply with the terms and provisions of the Declaration as same may from time to time be amended, and, if they comply, approve them, and if they do not comply, disapprove them;

m. To maintain, repair, replace, and operate the Common Areas within the Development intended for the common use and benefit of the Members, to the extent not maintained by others, including, but without limitation, the lakes, ditches, canals and other water retention and drainage systems, preservation and conservation areas, Surface Water Management System, the streets, curbs, gutters, medians, entryways, common sewers, and storm sewers and the other common utilities, including common telephone, cable television, and electric transmission cables;

n. To purchase and maintain one or more insurance policies insuring Association property against loss, damage or destruction and insuring the Association liability to others;

o. To participate in mergers and consolidations with other non-profit corporations organized for the same purposes, or annex additional residential property or common elements;

p. To do and perform anything required by these Articles, the Bylaws, or the Declaration to be done Lot Owner, but not done timely by the Lot Owner, at the cost and expense of such Lot Owner;

q. To do and perform any obligations imposed upon the Association by the Declaration and to enforce by any legal means the provisions of these Articles, Bylaws, and the Declaration. To have and exercise any and all power, rights, and privileges that a not-for-profit corporation organized under Chapter 617 of the Florida Statutes by law may now or hereafter have or exercise.

The Association is organized and shall be operated exclusively for the purposes set forth above. The activities of the Association shall be financed by Assessments against Members as provided in the Declaration, and no part of any earnings of the Association will inure to the benefit of any Member.

The foregoing specific duties and responsibilities are not to be construed in any way as limiting the powers of the Association. Rather, the Association will have and exercise all of the powers conferred upon the Association so formed.

## **ARTICLE V - MEMBERSHIP**

5.01 Association Membership shall be comprised of all Owners of Lots and Parcels of real property located within the subdivision, the 'Members'.

5.02 Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

## **ARTICLE VI - VOTING RIGHTS**

6.01 The Association shall have two classes of voting membership, Class "A" and Class "B" as follows:

6.02 Class "A". Class "A" Members shall be all Owners of Lots and Parcels within the Development.

Class "A" The voting for each Lot Owner shall be proportionate to all other Lot Owners as determined by the amount of acreage in any one Lot or Parcel owned by an Owner in relation to the total number of acres in the Properties. For example, if a Lot or Parcel contains one (1) acre and the total number of acres within the Property contains 10 acres then, said Lot or Parcel shall have 1/10th of the total votes. For purposes of calculating the amount of acres which a Lot and the total acreage of the Properties contain, the amount of acreage as indicated on the Plat, or as otherwise reasonably and consistently determined and applied by the Association to all Lots and the Properties shall be utilized. Class "A:" Members shall be entitled to vote after relinquishment of control by Declarant (the "Turnover"). When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot however, shall be exercised as such Members may determine among themselves, and in no event shall more than one vote be cast with respect to any one Lot.

6.03 The Class "B". The Class "B" Member shall be the Declarant, sometimes referred to as the "Developer", or its successors or assigns in interest. The Class "B" Member shall be the sole class entitled to vote until Declarant relinquishes control by Turnover. Further, the Class "B" Member shall be entitled to appoint a majority of the members of the Board of Directors until said Turnover. Upon Turnover, the Class "B" Member shall be deemed to be a Class "A" Member entitled to vote as provided for other Class "A" Members.

## **ARTICLE VII - BOARD OF DIRECTORS**

7.01 The initial Board of Directors shall consist of three (3) Directors. The names and addresses of the initial Directors are as follows:

1. W. Kirk Beck, 6908 Erin Marie Ct., Fort Myers, FL. 33919
2. Bruce Bartholomew, 1560 Matthew Dr., Suite H, Fort Myers, FL. 33907
3. Kelly Beck, 6908 Erin Marie Ct., Fort Myers, FL. 33919

7.02 The Board of Directors shall be the persons who will manage the corporate affairs of the Association and are vested with the management authority thereof. The Board of Directors will be responsible for the administration of the Association and will have the authority to

control the affairs of the Association as more fully set forth in the Declaration and By-laws of the Association.

7.03 The method of election, appointment, term of office removal, and filling of vacancies shall be as set forth in the By-laws.

#### **ARTICLE VIII - OFFICERS**

8.01 The affairs of the Association shall be managed by a President, Vice President, Secretary, Treasurer, and if elected by the Board of Directors, any such other officers and assistant officers as may be designated by the Board of Directors. The Board of Directors shall elect, each to serve for a term of one (1) year, a President, a Vice President, a Secretary, a Treasurer, and such other officers as the Board of Directors may from time to time determine appropriate.

#### **ARTICLE IX - TERM OF EXISTENCE**

9.01 The Association shall have perpetual existence.

#### **ARTICLE X - INCORPORATOR**

10.01 The name and address of the Incorporator to these Amended and Restated Articles of Incorporation is as follows: W. Kirk Beck 6908 Erin Marie Ct., Fort Myers, FL 33919

#### **ARTICLE XI - INDEMNIFICATION OF OFFICERS & DIRECTORS**

11.01 The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any

such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

## **ARTICLE XII - TRANSACTIONS IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED**

12.01 In the absence of fraud, no contract or other transaction between the Association and any other person, firm, association, corporation or partnership shall be affected or invalidated by the fact that any Director or officer of the Association is pecuniarily or otherwise interested in, or is a director, member or officer of any such other firm, association, corporation or partnership, or is a party or is pecuniarily or otherwise interested therein.

12.02 Any Director may vote and be counted in determining the existence of a quorum at any meeting of the Board of Directors of the Association for the purpose of authorizing such contract or transaction with like force and effect as if such Director were not so interested, or were not a director, member or officer of such firm, association, corporation or partnership.

## **ARTICLE XIII - DISSOLUTION**

13.01 No portion of the net earnings of the Association will inure, upon dissolution of the Association or otherwise, to the benefit of any private person, other than as a direct result of the Association engaging in one or more of the activities which are consistent with and within the scope of its purpose. Subject to the foregoing, upon the dissolution of the Association, all of its assets remaining after adequate provision is made for the payment of its creditors and the cost and expenses of dissolution, would be distributed in the following manner:

(a) The property and interests in property, whether real, personal, or mixed, which constitute or directly or indirectly related to the Surface Water Management System, if any, will be dedicated to the appropriate governmental agency or contributed to a similar not-for-profit corporation or organization as required by the South Florida Water Management District, if any. This provision may not be amended without the consent and approval of the South Florida Water Management District.

(b) Property and interests in property, whether real, personal, or mixed, which do not constitute or which are neither directly or indirectly related to the Surface Water Management System, if any, will be distributed to the person, firm, or corporation, designated by the

Declarant or, in the event the Declarant should fail to designate such person, then to the person, firm, or corporation designated by the largest number of owners entitled to cast votes on matters coming before the membership who actually cast votes.

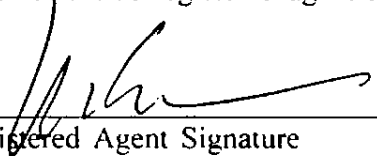
#### **ARTICLE XIV - AMENDMENT**

14.01 Amendments to these Articles shall require the affirmative vote of a majority of the Directors of the Association.

#### **ARTICLE XV - REGISTERED AGENT AND OFFICE**

15.01 The name of the Association's initial registered agent and its initial registered office is as follows: W. Kirk Beck 6908 Erin Marie Ct., Fort Myers, FL 33919

Having been named as registered agent to accept service of process for the above stated corporation at the place designated in these Articles, I am familiar with and accept the appointment as registered agent and agree to act in this capacity.

  
\_\_\_\_\_  
Registered Agent Signature

Dated: April 27 2021

#### **ARTICLE XVI - CONSTRUCTION**

16.01 These Amended and Restated Articles of Incorporation and the Bylaws of the Association shall be construed, in case of any ambiguity or lack of clarity, to be consistent with the provisions of the Declaration. In the event of any conflict between the terms of the Governing Documents, the following order of priority shall apply: The Declaration, the Articles of Incorporation, and the Bylaws.

#### **ARTICLE XVII - EFFECTIVE DATE**

17.01 The Effective Date shall be the date of filing of these Amended and Restated Articles of Incorporation.

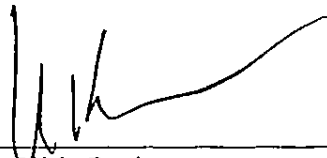
## ARTICLE XVIII - EFFECT OF AMENDMENT AND RESTATEMENT

18.01 These Amended and Restated Articles of Incorporation supersede the original articles of incorporation and all amendments to them, if any.

**ADOPTION OF AMENDED AND RESTATED ARTICLES OF INCORPORATION:** These Amended and Restated Articles of Incorporation do not contain an amendment which requires member approval. These Amended and Restated Articles of Incorporation were adopted by the Board of Directors on 27<sup>th</sup> day of April, 2021.

I submit this document and affirm that the facts stated herein are true, I am aware that the false information submitted in a document to the Department of State constitutes a third degree felony as provided for in Section 8 of F.S.817.155.

Dated: April 27, 2021

  
\_\_\_\_\_  
W. Kirk Beck  
President and Director