

P0600053660

(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:

PK

Office Use Only



800069914028

04/14/06--01014--011 **1778.75

RECEIVED
APR 14 2006 9:57
TALLAHASSEE, FLORIDA

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

2006 APR 14 PM 1:42

FILED

Sunstate Research

Requester's Name

Address

City/State/Zip

Phone #

686-5454

Office Use Only

CORPORATION NAME(S) & DOCUMENT NUMBER(S), (if known):

1. Dorset Management Company
(Corporation Name) (Document #)

2. _____
(Corporation Name) (Document #)

3. _____
(Corporation Name) (Document #)

4. _____
(Corporation Name) (Document #)

☒ Walk in
☐ Mail out

☐ Pick up time
☐ Will wait

☒ Photocopy

☐ Certified Copy
☐ Certificate of Status

NEW FILINGS

☒ Profit
☒ Not for Profit
☐ Limited Liability
☐ Domestication
☐ Other

OTHER FILINGS

☐ Annual Report
☐ Fictitious Name

AMENDMENTS

☐ Amendment
☐ Resignation of R.A., Officer/Director
☐ Change of Registered Agent
☐ Dissolution/Withdrawal
☐ Merger

REGISTRATION/QUALIFICATION

☐ Foreign
☐ Limited Partnership
☐ Reinstatement
☐ Trademark
☐ Other

Examiner's Initials

2006 APR 14 PM 1:42
SECRETARY OF STATE
TALLAHASSEE, FLORIDA
FILED

**ARTICLES OF INCORPORATION
OF
DORSET 17 ASSET MANAGEMENT, INC.
a Florida corporation**

Pursuant to the provisions of Section 607.0202 of the Florida Business Corporation Act (the "Act"), the undersigned individual hereby executes the following Articles of Incorporation:

FIRST: The name of this corporation is Dorset 17 Asset Management, Inc. (the "Corporation"). The Corporation's principal and mailing address is 777 Brickell Avenue, Suite 1270, Miami, Florida 33131.

SECOND: The purposes for which the Corporation is organized are:

(a) To acquire a membership interest in and act as the managing member of Dorset 17 Hotel Company LLC, a Florida limited liability company ("Holdco"), which is the owner of all of the interests in Vantage Dorset 17 Condotel, LLC, a Florida limited liability company (the "Property Owner"), which is engaged solely in the ownership, operation and management of the real estate project known as the Dorset Hotel located at 1720 Collins Avenue, Miami Beach, Florida (the "Property"); and

(b) To engage in such other lawful activities permitted to corporations by the Act as are incidental, necessary or appropriate to the foregoing.

THIRD: The total number of shares of all classes of capital stock which the Corporation shall have authority to issue is 1,000 shares, all of which shall be Common Stock having a par value of \$.01 per share.

FOURTH: The address of the Corporation's registered office within the State of Florida is c/o Corporation Company of Miami, 201 South Biscayne Boulevard, Suite 1500 (AGS), Miami, Florida 33131; and the name of the Corporation's registered agent at such address is Corporation Company of Miami.

FIFTH:

(a) The number of directors constituting the current board of directors is three, provided that such number may hereafter be increased in accordance with the By-Laws of the Corporation. The names and addresses of the directors are as follows:

<u>Name</u>	<u>Address</u>
Omar Botero Canal	777 Brickell Avenue Suite 1270 Miami, Florida 33131
Claudia Garcia	777 Brickell Avenue Suite 1270 Miami, Florida 33131

Michelle Dreyer

777 Brickell Avenue
Suite 1270
Miami, Florida 33131

(b) At all times at which the directors of the Corporation shall take, or shall be required to take, any action in such capacity and until such time as all obligations secured by the first lien mortgage incurred in connection with the loan in the initial principal amount of \$9,700,000.00 (the "Loan") to be made to the Property Owner and any other obligation secured by that certain mortgage in favor of Hudson Realty Capital Fund III LP as lender (the "Mortgage") remains outstanding and not discharged in full, there shall be at one Independent Director. An "Independent Director" shall be an individual who shall not have been at the time of such individual's appointment, and may not have been at any time during the preceding five years, a member of, or an officer, director, paid consultant or employee of, the Property Owner or any of its members, subsidiaries or Affiliates, a customer of, or supplier to, the Property Owner or any of its members, subsidiaries or Affiliates, a person or other entity controlling or under common control with any such member, supplier or customer of, or a member of the immediate family of any such member, officer, director, paid consultant or employee of, the Property Owner. The board of directors of the Corporation shall not take any action which, under the terms of the Articles of Incorporation, the by-laws of the Corporation or voting trust agreement with respect to Common Stock, requires the vote of the board of directors of the Corporation unless at the time of such action there shall be at least one member who is an Independent Director.

As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through ownership of voting securities, by contract or otherwise. As used herein, the term "Affiliate" shall mean any person or entity other than the Corporation (i) which owns beneficially, directly or indirectly, any outstanding shares of the Corporation's stock or any membership interest in the Property Owner, or (ii) which controls, is controlled by or is under common control with the Corporation, the Property Owner, or any Guarantor (as hereinafter defined).

(c) No Independent Director may be removed unless his or her successor has been elected. No Independent Director shall, with regard to any action to be taken under or in connection with this Article FIFTH, owe a fiduciary duty to the initial shareholder nor to any successor shareholders (except as may specifically be required by the statutory law of any applicable jurisdiction). Instead, such Independent Director's fiduciary duty and other obligations with regard to such action under or in connection with this Article FIFTH shall be owed to the Corporation (including its creditors).

(d) Notwithstanding any other provision of this Articles of Incorporation, any contrary or inconsistent provision of the By-Laws of the Corporation or any other document or instrument governing the affairs of the Corporation, or any provision of law that otherwise so empowers the Corporation, so long as the Loan and any other obligation secured by the Mortgage remains outstanding and not discharged in full, without the prior written consent of the holder of the Mortgage (the "Lender"), the Corporation shall have no authority to:

(i) conduct its affairs in any manner contravening or inconsistent with the provisions of Article SEVENTH of this Articles of Incorporation;

(ii) dissolve or liquidate the Corporation, Holdco, or the Property Owner or consent to any such dissolution or liquidation;

(iii) sell or otherwise dispose of all or substantially all of the assets of the Corporation, Holdco or the Property Owner, except as permitted in the Mortgage;

(iv) withdraw as the managing member of Holdco; or

(v) amend, modify or alter Articles SECOND, FIFTH and SEVENTH of the Articles of Incorporation.

(e) Notwithstanding any other provision of the Articles of Incorporation, any contrary or inconsistent provision of the By-Laws of the Corporation or any other document or instrument governing the affairs of the Corporation, or any provision of law that otherwise so empowers the Corporation, so long as the Loan or any other obligation secured by the Mortgage remains outstanding and not discharged in full (or consolidated and restated), the Corporation shall have no authority, unless such action has been approved by a unanimous vote of the Corporation's board of directors (including the affirmative vote of the Independent Director) and, in the case of Holdco or the Property Owner, the unanimous vote of all other members of Holdco or the Property Owner, to file or consent to the filing of any voluntary or involuntary bankruptcy or insolvency petition with respect to the Corporation, Holdco or the Property Owner or otherwise initiate or consent to proceedings to have the Corporation, Holdco or the Property Owner adjudicated bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against the Corporation, Holdco or the Property Owner, or file a petition seeking or consenting to reorganization or relief of the Corporation, Holdco or the Property Owner as debtor under any applicable federal or state law relating to bankruptcy, insolvency, or other relief for debtors with respect to the Corporation, Holdco or the Property Owner; or seek or consent to the appointment of any trustee, receiver, conservator, assignee, sequestrator, custodian, liquidator (or other similar official) of the Corporation, Holdco or the Property Owner or of all or any substantial part of the properties and assets of the Corporation, Holdco or the Property Owner, or make any general assignment for the benefit of creditors of the Corporation, Holdco or the Property Owner, or admit in writing the inability of the Corporation, Holdco or the Property Owner to pay its debts generally as they become due or declare or effect a moratorium on the debt of the Corporation, Holdco or the Property Owner, or take any corporate action in furtherance of any such action.

SIXTH: The Corporation shall, to the fullest extent permitted by Section 607.0850 of the Act, as the same may be amended and supplemented, indemnify any and all corporate agents whom it shall have the power to indemnify under said section from and against any and all of the expenses, liabilities, or other matters referred to in or covered by said section, and the indemnification provided for herein shall not be deemed exclusive of any other rights to which those indemnified hereunder may be entitled under the By-laws of the Corporation, agreement, vote of shareholders, or otherwise, and shall continue as to a person who has ceased to be a corporate agent and shall inure to the benefit of the heirs, executors, administrators, and personal representatives of such a corporate agent. The term "corporate agent" as used herein shall have

the meaning attributed to it by Section 607.0850 and 607.01401 of the Act and by any other applicable provision of the law.

The personal liability of the directors of the corporation is hereby eliminated to the fullest extent permitted by Section 607.0831 of the Act, as the same may be amended and supplemented.

SEVENTH: As long as the Loan and any other obligation secured by the Mortgage remains outstanding and not discharged in full, the Corporation shall at all times conduct its business and operations in strict accordance and compliance with the following provisions:

(a) The board of directors of the Corporation shall duly authorize all corporate actions of the Corporation, and the Corporation shall duly authorize all actions of Holdco, to the extent required by the Articles of Incorporation, the Corporation's amended and restated by-laws, the operating agreement of Holdco and the laws of the State of Florida. Each of the Corporation and Holdco shall maintain its own separate minutes of such actions;

(b) The Corporation has not and shall not own any asset or property other than (i) its interest in Holdco, and (ii) incidental personal property necessary for the ownership or operation of its interest in Holdco;

(c) The Corporation shall not engage in any business or activity other than those set forth in Article SECOND of the Articles of Incorporation and shall not cause or permit Holdco to engage in any business or activity other than the acquisition, ownership, management and operation of the Property Owner and the Corporation will conduct and operate its business as presently conducted and operated;

(d) The Corporation shall not enter into or be a party to, or cause or permit Holdco to enter into or be a party to, any transaction, contract or agreement with any guarantor of the debt secured by the Mortgage or any part thereof (a "Guarantor") or with any Affiliate, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arms-length basis with unrelated third parties other than any Guarantor or Affiliate;

(e) The Corporation shall not, and shall not cause or permit Holdco to, incur any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than, in the case of the Property Owner, (i) the debt secured by the Mortgage and (ii) trade and operational debt incurred by Holdco or the Property Owner in the ordinary course of business with trade creditors in connection with owning, operating and maintaining the Property, in such amounts as are normal and reasonable under the circumstances, provided such debt is not evidenced by a promissory note or other security instrument and is not at any time in an aggregate amount in excess of two percent (2%) of the original Loan amount, and further provided that all such trade debts are paid as and when the same become due and in any event no later than 30 days after the date of invoice. No indebtedness other than the debt secured by the Mortgage may be secured (senior, subordinated or *pari passu*) by the Property;

(f) The Corporation shall not, and shall not permit Holdco or the Property Owner to, make any loans or advances to any third party, nor to any Guarantor, any Affiliate or any constituent party of Holdco or the Property Owner;

(g) The Corporation is, and shall remain, solvent and shall pay its debts from its assets as the same shall become due;

(h) The Corporation has done or caused to be done and shall do all things necessary to preserve its existence and the existence of Holdco and Property Owner, and the Corporation shall not, nor shall the Corporation cause or permit Holdco or the Property Owner to, amend, modify or otherwise change the partnership certificate, partnership agreement, articles of incorporation, articles of organization or formation, by-laws, operating agreement, trust or other organizational documents of the Corporation, Holdco or the Property Owner or a Guarantor in a manner which would adversely affect the Corporation's or Holdco or the Property Owner existence as a single-purpose entity, without the prior written consent of Lender;

(i) The Corporation shall maintain its and, separately, Holdco or the Property Owner' financial statements, accounting records, books and records, bank accounts and other entity documents separate from those of their respective Affiliates, any constituent party of Holdco or the Property Owner or any other person or entity, and the Corporation will file its own tax returns, and cause Holdco or the Property Owner to file its own tax returns, provided, that, Affiliates may file tax returns on a consolidated basis with the Corporation but no such tax returns shall suggest or imply (i) that the Corporation's assets are generally available to satisfy the claims any creditor may have against any Affiliate or (ii) that the Corporation has agreed to pay or make its assets available to pay creditors of any Affiliate filing such consolidated tax return. The Corporation shall maintain its and, separately, Holdco or Property Owner's books, records, resolutions and agreements as official records;

(j) The Corporation shall 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, any constituent party of Holdco or the Property Owner or any Guarantor), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name, shall not identify itself or any of its Affiliates as a division of the other and shall maintain and utilize separate invoices and checks (provided, that the Corporation may employ an asset manager and make payments of trade payables to the asset manager with directions that the asset manager disburse such amounts from the asset manager's account necessary to pay the trade payables). The Company shall allocate fairly and reasonably the costs associated with common employees and any overhead for shared office space;

(k) The Corporation shall preserve and keep in full force and effect its existence, good standing and qualification to do business in the state in which the Property is located and the Corporation will observe all corporate formalities and record keeping, as applicable. The Corporation will pay the salaries of its own employees;

(l) The Corporation shall maintain adequate capital and a sufficient number of employees for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(m) The Corporation shall not seek or consent to the dissolution or winding up, in whole or in part, of the Corporation, Holdco or the Property Owner, nor shall the Corporation merge with or be consolidated into any other entity or cause or permit Holdco or the Property Owner to be merged with or consolidated into any other entity, or acquire, or cause or permit

Holdco or the Property Owner to acquire, by purchase or otherwise, all or substantially all of the business assets of, or any stock or beneficial ownership of, any entity;

(n) The Corporation shall not commingle the funds or any other assets of the Corporation with those of any Affiliate, any Guarantor, any constituent party of Holdco or the Property Owner or any other person or entity, and the Corporation shall pay its own liabilities out of its own funds and assets, provided, that, the Company may employ an asset manager and make payments of trade payables to an asset manager with direction to the asset manager to disburse such amounts from the asset manager's account necessary to pay the trade payables;

(o) The Corporation shall maintain its and, separately, Holdco's or the Property Owner's assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its or Holdco or the Property Owner's individual assets from those of any constituent party of Holdco or the Property Owner, Affiliate, Guarantor or any other person or entity;

(p) The Corporation shall not, and shall not permit Holdco or the Property Owner to assume, guarantee, become obligated for or hold itself out to be responsible for, or hold out its credit as being available to satisfy, or pledge its assets as security for, the debts or obligations of any other person or entity (provided, that the foregoing shall not prevent Holdco or the Property Owner from being and holding itself responsible for expenses incurred or obligations undertaken by the property manager of the Property in respect of its duties regarding the Property);

(q) The Corporation shall not pledge its assets for the benefit of any other person or entity;

(r) The Corporation shall not acquire obligations or securities of any Guarantor or Affiliate;

(s) The sole asset of the Corporation shall be its interest in Holdco and the Corporation will at all times comply, and cause Holdco to comply, with each of the provisions of this Article SEVENTH. The members of the board of directors of the Corporation shall consider the interests of the creditors of the Corporation and Holdco in connection with all corporate decisions and actions;

(t) Neither the Corporation nor the members of the board of directors of the Corporation shall take any action which, under the terms of this Articles of Incorporation, any Articles of incorporation, by-laws or any voting trust agreement with respect to any common stock, requires the vote of the board of directors of the Corporation unless at the time of such action there shall be one member of such board of directors who is an Independent Director;

(u) As of the date hereof, neither the Corporation nor any shareholder of the Corporation (i) is insolvent nor does any of them expect to become insolvent as a result of the making of the Loan, (ii) engages in, nor does it expect to engage in, a business for which its remaining property represents an unreasonably small capitalization, and (iii) incurs, intends to incur, or believes that it will incur indebtedness that it will not be able to repay at its maturity; and

(v) The board of directors of the Corporation has determined by appropriate resolution that the activities of each of the Corporation, Holdco and the Property Owner in

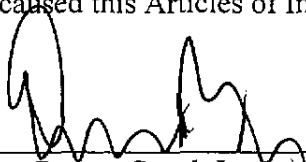
connection with the Loan are in the best interests of the members of Holdco and the Property Owner. The Corporation did not enter into its duties and obligations under the amended and restated limited liability company agreement of Holdco or the Property Owner with the intent to hinder, delay or defraud its creditors.

The foregoing provisions of this Article SEVENTH shall govern over any contrary or inconsistent provision of this Articles of Incorporation, the by-laws of the Corporation or any other document or instrument governing the affairs of the Corporation.

EIGHTH: The duration of the Corporation is to be perpetual.

NINTH: The name of the Incorporator is Omar Botero Canal and his address is 777 Brickell Avenue, Suite 1270, Miami, Florida, 33131.

IN WITNESS WHEREOF, the Corporation has caused this Articles of Incorporation to be signed this 11 day of April, 2006.



Omar Botero Canal, Incorporator

REGISTERED AGENT ACCEPTANCE

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE-
STATED CORPORATION AT THE ADDRESS DESIGNATED IN THE
ARTICLES OF ORGANIZATION PURSUANT TO THE PROVISIONS OF SECTION
608.415, FLORIDA STATUTES, THE UNDERSIGNED HEREBY AGREES TO ACT IN
THIS CAPACITY, AND FURTHER AGREES TO COMPLY WITH THE PROVISIONS OF
ALL STATUTES RELATIVE TO THE PROPER AND COMPLETE DISCHARGE OF ITS
DUTIES.

DATED THIS 11th DAY OF APRIL, 2006

Corporation Company of Miami

By: 

Felicia Hickey, Assistant Secretary