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Florida Department of State

Division of Corporations

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DIVISION OF CORPORATIONS

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BP CYPRESS CREEK, INC.

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T. Roberts SEP 21 2006
Amend

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**ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
BP CYPRESS CREEK, INC.**

Document number of the corporation: P06000108601

Pursuant to the provisions of Section 607.1006, Florida Statutes, this Florida Profit Corporation adopts the following amendments to its Articles of Incorporation:

I. Article III of the corporation's Articles of Incorporation shall be deleted in its entirety and replaced with the following:

**"Article III
Purpose"**

The corporation is organized for the following purpose:

(a) Acting as the managing member of 6400 Associates, LLC, a Florida limited liability company (the "Limited Liability Company"), whose purpose is to own, hold, sell, assign, transfer, operate, lease, mortgage, pledge and otherwise deal with those certain parcels of real property together with all improvements located thereon in the City of Fort Lauderdale, State of Florida, commonly known as the Business Plaza at Corporate Park, located at 6400-6472 NW 5th Way, Fort Lauderdale, Florida (the "Property"), including, but not limited to, assume a loan with a current balance of approximately Five Million One Hundred Thousand Dollars (\$5,100,000) held by Principal Life Insurance Company (together with its successors and assigns, the "Lender") and to borrow an additional Two Million Five Hundred Fifty Thousand Dollars (\$2,550,000) from the Lender for a loan in the aggregate amount of Seven Million Six Hundred Fifty Thousand Dollars (\$7,650,000) from the Lender (the "Loan Amount"), evidenced by a secured promissory note, whereby the Company promises to pay to Lender the Loan Amount together with all accrued and unpaid interest thereon and all other obligations and liabilities due or to become due to Lender pursuant to the documents, instruments and agreements executed and delivered in connection with such loan (collectively, the "Loan Documents") and all other amounts, sums and expenses paid by or payable to Lender pursuant to all such documents (collectively, the "Indebtedness").

(b) To exercise all powers enumerated in the general corporation law of the State of Florida necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein.

(c) Notwithstanding anything to the contrary set forth in Articles III (a) and (b) hereof, since its formation and thereafter until the Indebtedness is paid in full, the corporation will continue to (i) be organized solely for the purpose acting as the

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managing member of the Limited Liability Company, (ii) not engage in any business unrelated to being the managing member of the Limited Liability Company, and (iii) not have any assets other than those related to the managing member interests of the Limited Liability Company."

2. Article IX of the corporation's Articles of Incorporation shall be amended to add the following at the end thereof:

"Notwithstanding anything herein to the contrary, any indemnification of the corporation's directors and officers shall be fully subordinated to any obligations respecting the Limited Liability Company or the Property (including, without limitation, the mortgage which secures the Indebtedness) and such indemnification shall not constitute a claim against the corporation or the Limited Liability Company in the event that cash flow in excess of amounts necessary to pay holders of such obligations is insufficient to pay such obligations."

3. Article XII shall be added to the corporation's Articles of Incorporation as follows:

**"Article XII
Certain Prohibited Activities**

Notwithstanding anything contained herein to the contrary, since its formation and thereafter until the Indebtedness is paid in full, the corporation: (i) will not amend this certificate of incorporation or the corporation's by-laws or permit the Limited Liability Company to amend its operating agreement or its articles of organization without first obtaining approval of the Lender; (ii) has not and will not engage in, seek or consent to any dissolution, winding up, liquidation, consolidation or merger, and, except as otherwise expressly permitted by the Loan Documents, has not and will not engage in, seek or consent to any asset sale or transfer of any shareholder or limited liability company interests; (iii) without the unanimous consent of all of the directors, has not and will not with respect to itself, the Limited Liability Company or, as applicable, to any other corporation, limited partnership, general partnership, limited liability company, or trust (each, an "Entity") in which it has a direct or indirect legal or beneficial ownership interest (a) file a bankruptcy, insolvency or reorganization petition or otherwise institute insolvency proceedings or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally, (b) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for such Entity or all or any portion of such Entity's properties, (c) make any assignment for the benefit of such Entity's creditors, or (d) take any action that might cause such Entity to become insolvent, (iv) has and will have no indebtedness other than commercially reasonable unsecured trade payables in the ordinary course of business relating to acting as managing member of the Limited Liability Company which are paid within sixty (60) days of the date incurred, (v) has not and will not assume or guarantee or become obligated for the debts of any other person or Entity or hold out its credit as being available to satisfy the obligations of any other person or Entity, (vi) has not and will not pledge its assets for the benefit of any other person or Entity, and (vii) has not made and will not make loans to any person or Entity."

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4. Article XIII shall be added to the corporation's Articles of Incorporation as follows:

**"Article XIII
Separateness Covenants"**

Notwithstanding anything contained herein to the contrary, in order to preserve and ensure its separate and distinct corporate identity, the corporation, since its formation and thereafter until the indebtedness is paid in full has not and will not fail to correct any known misunderstanding regarding the separate identity of such Entity, (ii) has maintained and will maintain its accounts, books and records separate from any other person or Entity, (iii) has maintained and will maintain its books, records, resolutions and agreements as official records, (iv) has not commingled and will not commingle its funds or assets with those of any other person or Entity, (v) has held and will hold its assets in its own name, (vi) has conducted and will conduct its business in its name, (vii) has maintained and will maintain its financial statements, accounting records and other Entity documents separate from any other person or Entity, (viii) has paid and will pay its own liabilities out of its own funds and assets, (ix) has observed and will observe all corporate formalities, (x) has maintained and will maintain an arms-length relationship with any person or Entity directly or indirectly controlling, controlled by, or under common control with the corporation or any person or Entity owning a material interest in the corporation, either directly or indirectly (collectively, the "Affiliates"), (xi) has not acquired and will not acquire obligations or securities of its beneficial owners or shareholders, (xii) has allocated and will allocate fairly and reasonably shared expenses, including, without limitation, shared office space and uses separate stationery, invoices and checks, (xiii) has held and identified itself and will hold itself out and identify itself as a separate and distinct Entity under its own name and not as a division or part of any other person or Entity, (xiv) has not and will not identify its shareholders or any Affiliates as a division or part of it, (xv) has not entered and will not enter into or be a party to, any transaction with its shareholders or its Affiliates except in the ordinary course of its business and on terms which are intrinsically fair and are no less favorable to it than would be obtained in a comparable arms-length transaction with an unrelated third party, (xvi) has paid and will pay the salaries of its own employees from its own funds, and (xvii) has maintained and will maintain adequate capital in light of its contemplated business operations."

5. Article XIV shall be added to the corporation's Articles of Incorporation as follows:

**"Article XIV
Voting"**

Notwithstanding anything contained herein to the contrary, when voting on matters concerning the Limited Liability Company, notwithstanding that the Limited Liability Company is not then insolvent, the corporation shall take into account the interest of the Limited Liability Company's creditors, as well as those of its members."

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The date of the adoption of each amendment was September 5, 2006.

The amendments were approved by the shareholders. The number of votes cast for the amendments by the shareholders were sufficient for approval.

Signature: _____



Richard Werber
President

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