

6/20/2014 11:18:18 From: To: 8506176381

Division of Corporations

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FLORIDA PROFIT/NON PROFIT CORPORATION
CPC Memphis Midtown Manager, Inc.

Certificate of Status	1
Certified Copy	0
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COVER LETTER

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

SUBJECT: CPC Memphis Midtown Manager, Inc.
(PROPOSED CORPORATE NAME - MUST INCLUDE SUFFIX)

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

☐ \$70.00 ☐ \$78.75
Filing Fee Filing Fee
 & Certificate of Status

☐ \$78.75 ☐ \$87.50
Filing Fee Filing Fee,
& Certified Copy Certified Copy
 & Certificate of
 Status
ADDITIONAL COPY REQUIRED

FROM: Jack Story
Name (Printed or typed)
5150 Tamiami Trail N, Suite 300
Address
Naples, Florida 34103
City, State & Zip
239.213.1600
Daytime Telephone number
jstory@corepropertycapital.com
E-mail address: (to be used for future annual report notification)

NOTE: Please provide the original and one copy of the articles.

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**ARTICLES OF INCORPORATION
OF
CPC MEMPHIS MIDTOWN MANAGER, INC.**

(In compliance with Chapter 607 and/or Chapter 621, F.S. (Profit))

ARTICLE 1. NAME

The name of the Corporation shall be CPC Memphis Midtown Manager, Inc.

ARTICLE 2. PRINCIPAL OFFICE

The principal street address is 5150 Tamiami Trail N, Suite 300, Naples, Florida 34103.
The mailing address is the same as the principal street address.

ARTICLE 3. PURPOSE.

The Corporation's business and purpose shall consist solely of the following:

(a) To hold a 0.5% membership interest in and act as the Managing Member of CPC Memphis Midtown, LLC, a Florida limited liability company (the "Borrower"), which is engaged solely in the ownership, operation and management of the real estate project known as Union Avenue Center located in Memphis, Shelby County, Tennessee (the "Property"), pursuant to and in accordance with these Articles of Incorporation and Borrower's Articles of Organization and Operating Agreement (collectively, the "Borrower's Agreements"); and

(b) to engage in such other lawful activities permitted by the laws of the State of Florida as are incidental, necessary or appropriate to the foregoing.

ARTICLE 4. SHARES

The number of shares of stock is 100.

ARTICLE 5. INITIAL OFFICERS AND DIRECTORS

The names and addresses of the initial officers and initial directors are on file at the principal office of the Corporation.

ARTICLE 6. REGISTERED AGENT

The name of the registered agent is John B. Story. The Florida street address of the registered agent is 5150 Tamiami Trail N, Suite 300, Naples, Florida 34103.

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ARTICLE 7. INCORPORATOR

The name of the incorporator is John B. Story. The street address of the incorporator is 5150 Tamiami Trail N, Suite 300, Naples, Florida 34103.

ARTICLE 8. LIMITATIONS.

Notwithstanding any other provision of these Articles and any provision of law that otherwise so empowers the Corporation, the Corporation shall not, without the unanimous consent of its Directors, do any of the following:

- (a) engage in any business or activity other than those set forth in Article 3 or cause or allow the Borrower to engage in any business or activity other than as set forth in the Borrower Agreements;
- (b) incur any indebtedness or assume or guaranty any indebtedness of any person or entity;
- (c) cause the Borrower to incur any indebtedness or to assume or guaranty any indebtedness of any person or entity, other than (i) the obligations (the "Loan") evidenced by a Promissory Note entered by Borrower and made payable to RIALTO MORTGAGE FINANCE, LLC, a Delaware limited liability company (together with its successors and assigns, "Lender") and a Loan Agreement entered by the Borrower and Lender (as amended, the "Loan Agreement") and secured by the lien on the Property evidenced by a Deed of Trust, Assignment of Leases and Rents, Fixture Filing and Security Agreement filed in the official public records of Shelby County, Tennessee for the benefit of Lender (the "Security Instrument"), and (ii) unsecured trade payables and operational debt not evidenced by a note and in an aggregate amount not exceeding three percent (3%) of the original principal amount of the Loan at any one time; provided that any indebtedness incurred pursuant to clause (ii) shall be (A) outstanding not more than sixty (60) days to the extent there exists sufficient cash flow from the Property to pay same and (B) incurred in the ordinary course of business. No indebtedness, other than the Loan, may be secured (senior, subordinate or pari passu) by the Property;
- (d) engage in, seek or consent to any dissolution, winding up, liquidation, consolidation, merger, or sale of all or substantially all of its assets, or transfer of its membership interests in Borrower;
- (e) as to Borrower, cause or consent to any dissolution, winding up, liquidation, consolidation, merger, sale or transfer of all or substantially all of Borrower's assets, in whole or in part;
- (f) with respect to the Corporation or the Borrower, (i) file or consent to the filing of any petition, either voluntary or involuntary, to take advantage of any applicable insolvency, bankruptcy, liquidation or reorganization statute, (ii) seek or consent to the appointment of a receiver, liquidator or any similar official for such entity or a substantial portion of its assets or properties, (iii) take any action that might cause such entity to become insolvent, (iv) make an assignment for the benefit of creditors, (v) admit in

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writing such entity's inability to pay its debts generally as they become due, (vi) declare or effectuate a moratorium on the payment of any obligations, or (vii) take any action in furtherance of any of the foregoing;

(g) amend Articles 3, 8, 9, 10 and 11 of these Articles of Incorporation or approve an amendment to Articles 1, 2, 3, 4 or 5 of Exhibit D of the Operating Agreement governing the Borrower; or

(h) withdraw as the Managing Member of the Borrower.

So long as any obligations secured by the Loan remain outstanding and not paid in full, the Corporation shall have no authority to take, and shall not take, any action in items (a) through (e), (g) or (h) above without (1) the prior written consent of the holder of the Security Instrument and, (2) after any Securitization (as defined in the Loan Agreement) and if requested by holder of the Security Instrument, confirmation from each of the Rating Agencies (as defined in the Loan Agreement) that such action will not result in the qualification, withdrawal or downgrade of any securities rating assigned in connection with the Loan.

ARTICLE 9. SEPARATENESS/OPERATIONS MATTERS.

The Corporation shall:

(a) not engage in any business or activity unrelated to acting as a managing member of Borrower;

(b) not own any assets other than the membership interest in Borrower;

(c) preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its organization or formation;

(d) not own any subsidiary or make any investment in, any person or entity, other than in Borrower;

(e) not commingle its assets with the assets of any of its general partners, managing members, shareholders, affiliates, principals or of any other person or entity and not permit Borrower to commingle its assets with the assets of any of its general partners, managing members, shareholders, affiliates, principals or of any other person or entity;

(f) maintain its financial statements, accounting records, bank accounts and other entity documents separate and apart from those of the partners, members, shareholders, principals and affiliates of such entity, and has not permitted and will not permit its assets to be listed as assets on the financial statement of any other entity except that such entity's financial position, assets, results of operations and cash flows may be included in the consolidated financial statements of an affiliate of such entity in accordance with GAAP; provided, however, that any such consolidated financial statement shall contain a note indicating that its separate assets and liabilities are neither

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available to pay the debts of the consolidated entity nor constitute obligations of the consolidated entity;

(g) cause Borrower to maintain its financial statements, accounting records, bank accounts and other entity documents separate and apart from those of the partners, members, shareholders, principals and affiliates of such entity, and has not permitted and will not permit its assets to be listed as assets on the financial statement of any other entity except that such entity's financial position, assets, results of operations and cash flows may be included in the consolidated financial statements of an affiliate of such entity in accordance with GAAP; provided, however, that any such consolidated financial statement shall contain a note indicating that its separate assets and liabilities are neither available to pay the debts of the consolidated entity nor constitute obligations of the consolidated entity;

(h) not enter into or be a party to any contract or agreement with any general partner, managing member, shareholder, principal or affiliate, any guarantor, or any general partner, managing member, shareholder, principal or affiliate thereof, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with third parties;

(i) not permit Borrower to enter into or be a party to any contract or agreement with any general partner, managing member, shareholder, principal or affiliate, any guarantor, or any general partner, managing member, shareholder, principal or affiliate thereof, except upon terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with third parties;

(j) 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 person or entity and cause Borrower to 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 person or entity;

(k) not make any loans to any third party and not permit Borrower to make any loans to any third party;

(l) hold itself out and identify itself to the public as a legal entity separate and distinct from any other person or entity and cause Borrower to hold itself out and identify itself to the public as a legal entity separate and distinct from any other person or entity;

(m) conduct its business solely in its own name in order not (i) to mislead others as to the identity with which such other party is transacting business, or (ii) to suggest that such entity is responsible for the debts of any third party;

(n) cause Borrower to conduct its business solely in its own name in order not (i) to mislead others as to the identity with which such other party is transacting business, or (ii) to suggest that such entity is responsible for the debts of any third party;

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(o) endeavor to remain solvent and pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall become due, to the extent there exists sufficient cash flow from the Property to do so and provided that the foregoing shall not require any equity owner to make additional capital contributions to Borrower;

(p) cause Borrower to endeavor to remain solvent and pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall become due, to the extent there exists sufficient cash flow from the Property to do so and provided that the foregoing shall not require any equity owner to make additional capital contributions to Borrower;

(q) endeavor to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations, to the extent there exists sufficient cash flow from the Property to do so and provided that the foregoing shall not require any equity owner to make additional capital contributions to the Borrower;

(r) cause Borrower to endeavor to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations, to the extent there exists sufficient cash flow from the Property to do so and provided that the foregoing shall not require any equity owner to make additional capital contributions to the Borrower;

(s) file its own tax returns, if any, as may be required under applicable law, to the extent such entity is (1) not part of a consolidated group filing a consolidated return or returns or (2) not treated as a division solely for tax purposes of another taxpayer, and has paid and will pay any taxes so required to be paid under applicable law and cause Borrower to file its own tax returns, if any, as may be required under applicable law, to the extent such entity is (1) not part of a consolidated group filing a consolidated return or returns or (2) not treated as a division solely for tax purposes of another taxpayer;

(t) allocate fairly and reasonably any overhead expenses that are shared with an affiliate, including paying for office space and services performed by any employee of an affiliate and cause Borrower to allocate fairly and reasonably any overhead expenses that are shared with an affiliate, including paying for office space and services performed by any employee of an affiliate;

(u) maintain a sufficient number of employees, if any, in light of its contemplated business operations and pay the salaries of its own employees from its own funds and cause Borrower to maintain a sufficient number of employees, if any, in light of its contemplated business operations and pay the salaries of its own employees from its own funds;

(v) not fail to correct any known misunderstanding regarding its separate identity and not fail to cause Borrower to correct any known misunderstanding regarding its separate identity;

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(w) hold its assets in its own name and conduct its business in its own name and cause Borrower to hold its assets in its own name and conduct its business in its own name;

(x) pay its own liabilities and expenses, to the extent there exists sufficient cash flow from the Property to do so and provided that the foregoing shall not require any equity owner to make additional capital contributions to the Borrower;

(y) cause Borrower to pay its own liabilities and expenses, to the extent there exists sufficient cash flow from the Property to do so and provided that the foregoing shall not require any equity owner to make additional capital contributions to the Borrower;

(z) observe all corporate formalities and cause Borrower to observe all limited liability company formalities;

(aa) 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;

(bb) not permit Borrower to 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, except as required by the Loan Documents;

(cc) not acquire obligations or securities of its shareholders or any other affiliate and not permit Borrower to acquire obligations or securities of its members or any other affiliate;

(dd) maintain and use separate stationery, invoices and checks bearing its name and cause Borrower to maintain and use separate stationery, invoices and checks bearing its name;

(ee) not pledge its assets for the benefit of any other person or entity other than as required by the Loan Documents and not permit Borrower to pledge its assets for the benefit of any other person or entity other than as required by the Loan Documents;

(ff) not have any obligation to, and will not, indemnify its officers, directors or shareholders, unless such an obligation is fully subordinated to the Loan and will not constitute a claim against it in the event that cash flow in excess of the amount required to pay the Loan is insufficient to pay such obligation;

(gg) not permit Borrower to have any obligation to indemnify its managers or members, unless such an obligation is fully subordinated to the Loan and will not constitute a claim against it in the event that cash flow in excess of the amount required to pay the Loan is insufficient to pay such obligation;

(hh) not have any of its obligations guaranteed by any affiliate of such entity except in connection with the Loan and not permit Borrower to have any of its

obligations guaranteed by any affiliate of such entity except in connection with the Loan;
and

(ii) consider the interests of its creditors in connection with all actions and
cause Borrower to consider the interests of its creditors in connection with all actions;

ARTICLE 10. SUBORDINATION OF INDEMNITIES.

All indemnification obligations of the Corporation are fully subordinated to any
obligations respecting the Property and such indemnification obligations shall in no event
constitute a claim against the Corporation if cash flow in excess of amounts necessary to
pay obligations under the Loan is insufficient to pay such indemnification obligations.

ARTICLE 11. THIRD PARTY BENEFICIARY.

Lender shall be regarded as a third party beneficiary for Articles 3, 8, 9 and 10 herein.

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



Required Signature/Registered Agent

June 19, 2014

Date

*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 s.817.155, F.S.*



Required Signature/Incorporator

June 19, 2014

Date

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