

P94000037637

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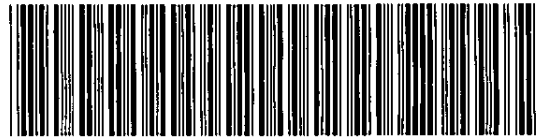
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CORPORATE OPERATIONS
2014 JUL -2 PM 10:46
10:46 AM
SUFFOLK COUNTY OF FILING

FILED
14 JUL -2 PM 3:29

Amend.
7-3-14
DC



CORPORATION SERVICE COMPANY

ACCOUNT NO. : I20000000195

REFERENCE : 201457 7116579

AUTHORIZATION

Spurlockman

COST LIMIT : \$ 35.00

ORDER DATE : July 1, 2014

ORDER TIME : 9:03 AM

ORDER NO. : 201457-005

CUSTOMER NO: 7116579

DOMESTIC AMENDMENT FILING

NAME: PHILLIPS PALM BEACH, INC.

EFFECTIVE DATE:

XX ARTICLES OF AMENDMENT
 RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

 CERTIFIED COPY
XX PLAIN STAMPED COPY
 CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Emily Gray -- EXT# 62925

EXAMINER'S INITIALS: _____

ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
PHILLIPS PALM BEACH, INC.

FLORIDA DOCUMENT NUMBER: P94000037637

14 JUL -2 PM 3:29

FILED

The undersigned President of Phillips Palm Beach, Inc. (the "**Corporation**"), desiring to amend the Articles of Incorporation of the Corporation which were filed with the Florida Secretary of State (the "**Secretary**") on May 18, 1994, and amended by that certain Articles of Amendment to Articles of Incorporation which were filed with the Secretary on March 1, 2007, and further amended by that certain Articles of Amendment to Articles of Incorporation which were filed with the Secretary on May 1, 2007 (collectively, the "**Articles**"), does hereby acknowledge and certify as follows:

1. **Name of the Corporation:** The name of the Corporation is Phillips Palm Beach, Inc. and its Florida Document Number is P94000037637.

2. **Text of the Amendment.**

(a) Article III of the Articles is hereby deleted in its entirety and the following is inserted in lieu thereof:

"The purpose of the Corporation is solely for the purpose of acquiring, developing, owning, holding, selling, leasing, transferring, exchanging, managing and operating the property known as Holiday Inn Palm Beach and located at 1301 Belvedere Road, West Palm Beach, Florida (the "**Property**"), entering into the loan documents (the "**Loan Documents**") with Ladder Capital Finance LLC (together with its successors and assigns, "**Lender**"), refinancing the existing debt on the Property (the "**Loan**"), and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing."

(b) A new Article XIII is hereby inserted in the Articles as follows:

"Notwithstanding anything to the contrary contained herein, for so long as the Loan is outstanding:

(i) Corporation shall not own any asset or property other than (A) the Property and (B) incidental personal property necessary for the ownership, management or operation of the Property.

(ii) Corporation shall not engage in any business other than the ownership, management and operation of the Property and Corporation will conduct and operate its business as presently conducted and operated.

(iii) Corporation shall not enter into or be a party to any contract or agreement with any Affiliate of Corporation, any constituent party of Corporation or any Affiliate of any constituent party, except in the ordinary course of business and on terms and conditions that are disclosed to Lender in advance and that are intrinsically fair, commercially reasonable and substantially similar to those that would be available on an arms-length basis with third parties other than any such party.

(iv) Corporation shall not incur any Indebtedness other than (A) the Loan, (B) unsecured trade payables, not evidenced by a note and in an aggregate amount not exceeding one percent (1%) of the original principal amount of the Loan at any one time, provided that any Indebtedness incurred pursuant to subclause (B) shall be (x) not more than sixty (60) days past due and (y) incurred in the ordinary course of business, (C) that certain unsecured loan in the original principal amount of \$500,000 made by Shirley F. Phillips; and (D) that certain unsecured loan in the original principal amount of \$500,000 made by Brice R. Phillips; (the Indebtedness described in the foregoing clauses (A), (B), (C), and (D) is referred to herein, collectively, as "**Permitted Indebtedness**"). No Indebtedness other than the Loan may be secured (subordinate or *pari passu*) by the Property.

(v) Corporation will not make any loans or advances to any Person (including any Affiliate or constituent party), and shall not acquire obligations or securities of its Affiliates.

(vi) Corporation intends to remain solvent and Corporation will pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from Net Operating Income and available Reserve Funds as the same shall become due; provided, however, that the foregoing shall not require any direct or indirect member, partner or shareholder of Corporation to make any additional capital contributions to Corporation.

(vii) Corporation will do all things necessary to observe organizational formalities and preserve its existence, and Corporation will not, (A) terminate or fail to comply with the provisions of its organizational documents, or (B) unless (1) Lender has consented and (2) following a Securitization of the Loan, the Rating Agencies have issued a Rating Agency Confirmation in connection therewith, amend, modify or otherwise change its partnership certificate, partnership agreement, articles of incorporation and bylaws, operating agreement, trust or other organizational documents.

(viii) Corporation will maintain all of its accounts, books, records, financial statements and bank accounts separate from those of its Affiliates and any other Person. Corporation's assets have not been and will not be listed as assets on the financial statement of any other Person; provided,

however, that Corporation's assets may be included in a consolidated financial statement of its Affiliates if (A) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of Corporation and such Affiliates and to indicate that Corporation's assets and credit are not available to satisfy the debts and other obligations of such Affiliates or any other Person, and (B) such assets shall be listed on Corporation's own separate balance sheet. Corporation will file its own tax returns (to the extent Corporation is required to file any such tax returns) and will not file a consolidated federal income tax return with any other Person. Corporation shall maintain its books, records, resolutions and agreements as official records.

(ix) Corporation will 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 of Corporation or any constituent party of Corporation), 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 or part of the other, and shall maintain and utilize separate stationery, invoices and checks bearing its own name.

(x) Corporation intends 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; provided, however, that the foregoing shall not require any direct or indirect member, partner or shareholder of Corporation to make any additional capital contributions to Corporation.

(xi) Neither Corporation nor any constituent party will seek or effect the liquidation, dissolution, winding up, consolidation or merger, in whole or in part, of Corporation.

(xii) Corporation will not commingle the funds and other assets of Corporation with those of any Affiliate or constituent party or any other Person, and will hold all of its assets in its own name.

(xiii) Corporation will 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 Affiliate or constituent party or any other Person.

(xiv) Corporation will not assume or guarantee or become obligated for the debts of any other Person and does not and will not hold itself out to be responsible for or have its credit available to satisfy the debts or obligations of any other Person.

(xv) Corporation will not permit any Affiliate or constituent party independent access to its bank accounts.

(xvi) Corporation shall pay the salaries of its own employees (if any) from its own funds and shall maintain a sufficient number of employees (if any) in light of its contemplated business operations provided, however, that the foregoing shall not require any direct or indirect member, partner or shareholder of Corporation to make any additional capital contributions to Corporation.

(xvii) Corporation shall compensate each of its consultants and agents from its funds for services provided to it and pay from its own assets all obligations of any kind incurred provided, however, that the foregoing shall not require any direct or indirect member, partner or shareholder of Corporation to make any additional capital contributions to Corporation.

(xviii) Corporation will not, take any action that might reasonably be expected to cause Corporation to become insolvent without the unanimous consent of all of its members, partners, directors or managers.

(xix) Corporation will allocate fairly and reasonably any shared expenses, including shared office space.

(xx) Except in connection with the Loan or any prior mortgage financing that has been fully paid and discharged in full prior to the date hereof, Corporation will not pledge its assets for the benefit of any other Person.

(xxi) Corporation either (i) will have no, obligation to indemnify its officers, directors, managers, members, shareholders or partners, as the case may be, or (ii) if it has any such obligation, such obligation is fully subordinated to the Debt and will not constitute a claim against Corporation if cash flow in excess of the amount required to pay the Debt is insufficient to pay such obligation.

(xxii) Corporation will consider the interests of Corporation's creditors in connection with all corporate actions.

(xxiii) Except as provided in the Loan Documents Corporation will not have any of its obligations guaranteed by any Affiliate.

(xxiv) As long as any portion of the Obligations remain outstanding, Corporation will not:

(A) dissolve, merge, liquidate or consolidate, except as provided below;

(B) except in connection with a sale or other transfer permitted under the Loan Documents, sell all or substantially all of its assets;

(C) amend its organizational documents with respect to the matters set forth in this Article XIII, (1) without the prior written consent of Lender and (2) the affirmative vote of each of its directors of the board of directors; or

(D) without the affirmative vote of each of its shareholders take any Material Action with respect to itself or to any other entity in which it has a direct or indirect legal or beneficial ownership interest.

All capitalized terms used herein shall have the meaning ascribed to them in that certain Loan Agreement by and between the Corporation and the Lender.”


3. This Amendment was adopted effective as of July 1, 2014. This Amendment was adopted by joint unanimous written consent of all of the Shareholders and Directors of the Corporation. The number of votes cast was sufficient for the approval of this Amendment.

[signatures on following page]

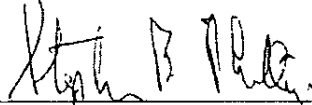
IN WITNESS WHEREOF, the President of the Corporation has executed this Articles of Amendment as of the 1st day of July, 2014.

WITNESS/ATTEST

PHILLIPS PALM BEACH, INC.



Dean Flowers
Secretary

By:  (SEAL)

Stephen B. Phillips
President