



P97000039107

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WALK IN

PICK UP 5/15/98 11:00 AM (C)

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FILING ~~Amendment~~ Amendment

1.) TRS @ Clermont, Inc.
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FILED
98 MAY 15 PM 1:05
SECRETARY OF STATE
TALLAHASSEE, FLORIDA
DIVISION OF CORPORATION
98 MAY 15 AM 9:51
RECORDED

Amended & Restated
C.C. & CUS.

SPECIAL INSTRUCTIONS

ARTICLES OF RESTATEMENT
OF THE ARTICLES OF INCORPORATION OF
TRS @ CLERMONT, INC.
A Florida Corporation

FILED


98 MAY 15 PM 1:05

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

THE UNDERSIGNED, as President of TRS @ CLERMONT, INC., a Florida corporation, Florida Document Number P97000039107 (the "Corporation"), in accordance with Section 607.1007(4), Florida Statutes, hereby submits for filing these Articles of Restatement of the Articles of Incorporation of the Corporation.

1. **Name of Corporation.** The name of the Corporation is "TRS @ Clermont, Inc."
2. **Text of Amended and Restated Articles.** The text of the Amended and Restated Articles of Incorporation of the Corporation is attached hereto as Exhibit A.
3. **Requirement of Shareholder Approval.** The Amended and Restated Articles of Incorporation contain amendments which required the approval of the Corporation's Shareholders.
4. **Date of Authorization.** The Amended and Restated Articles of Incorporation were adopted by the unanimous written action of the Directors and Shareholders of the Corporation on May 11, 1998.
3. **Sufficiency of Vote.** The Amended and Restated Articles of Incorporation were unanimously approved by the Corporation's Directors and Shareholders, which is a vote sufficient to approve the Amendment under the Corporation's Articles of Incorporation and Bylaws and under the laws of the State of Florida.
4. **Effective Date of Amended and Restated Articles of Incorporation.** The Amended and Restated Articles of Incorporation shall be effective immediately upon filing by the Department of State.

IN WITNESS WHEREOF, the undersigned President of the Corporation has executed these Articles of Amendment this 11th day of May, 1998.


Micah G. Savell, President

FILED

EXHIBIT A

98 MAY 15 PM 1:05

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
TRS @ CLERMONT, INC.
A Florida Corporation**

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The following are the Amended and Restated Articles of Incorporation of TRS @ Clermont, Inc., a Florida corporation (the "Corporation").

FIRST: The name of the Corporation is "TRS @ Clermont, Inc." and its principal office and mailing address shall be located at 1370 Sarno Road, Suite A, Melbourne, Florida, 32935. The location of the principal office and mailing office shall be subject to change as may be provided in bylaws duly adopted by the Corporation.

SECOND: The address of the Corporation's registered office in the State of Florida is 1370 Sarno Road, Suite A, Melbourne, Florida, 32935. The name of its registered agent at such address is Micah G. Savell, and such Registered Agent has previously executed and filed with the Department of State of the State of Florida a written Acceptance of Registered Agent.

THIRD: The purpose of the Corporation shall be limited to (i) the owning, holding, improving, using, and otherwise dealing in and with real or personal property or any interest therein, situated at 998 East Highway 50, Clermont Florida, 34711, Florida (the "Property"); (ii) the selling, conveying, mortgaging, pledging, creating a security interest in, leasing, exchanging, transferring, and otherwise disposing of all or any part of the Property; and (iii) all activities incidental thereto. The Corporation shall be prohibited from incurring indebtedness of any kind except in connection with the Property.

FOURTH: The total number of shares which the Corporation shall have authority to issue is five hundred (500) shares of common Stock, par value \$1.00 per share.

FIFTH: The Board of Directors is expressly authorized to adopt, amend, or repeal the By-Laws of the Corporation upon the conditions set forth in the By-Laws.

SIXTH: The number of Directors constituting the Board of Directors of the corporation is one (1). The number of Directors may be increased or decreased from time to time, but in no event shall the number of Directors be less than one (1). The name and address of the person who is to serve as the corporation's sole Director until the next annual meeting of the shareholders of the corporation or until one or more successor Directors are elected and shall qualify are as follows:

Micah G. Savell

1370 Sarno Road, Suite A
Melbourne, Florida 32935.

Elections of directors need not be by written ballot unless the By-Laws of the Corporation shall otherwise provide.

SEVENTH: The following provisions regulate the internal affairs of the Corporation:

1. A unanimous vote of the Board of Directors is required for the Corporation to take any of the following actions:

- (a) causing the Corporation to become insolvent;
- (b) commencing any case, proceeding or other action on behalf of the Corporation under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization or relief of debtors;
- (c) instituting proceedings to have the Corporation adjudicated as bankrupt or insolvent;
- (d) consenting to the institution of bankruptcy or insolvency proceedings against the Corporation;
- (e) filing a petition or consent to a petition seeking reorganization, arrangement, adjustment, winding-up, dissolution, composition, liquidation or other relief on behalf of the Corporation of its debts under any federal or state law relating to bankruptcy;
- (f) seeking or consenting to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Corporation or a substantial portion of the properties of the Corporation;
- (g) making any assignment for the benefit of the Corporation's creditors; or
- (h) taking any action in furtherance of any of the foregoing;

2. Upon the closing of that certain proposed "Credit Tenant Lease Loan" (the "Loan") between Lehman Brothers Holdings, Inc. or its affiliate (the "Lender") and the Corporation, and for so long as the Loan is outstanding, the Corporation shall not, without the prior written consent of the Lender:

- (a) amend these Articles of Incorporation;

- (b) engage in any business activity other than as set forth in Article THIRD;
 - (c) incur any indebtedness other than the Loan; or
 - (d) dissolve, liquidate, consolidate, merge, or sell all or substantially all of the Corporation's assets.
3. The Corporation shall:
- (a) not commingle its assets with those of any other entity and hold its assets in its own name;
 - (b) conduct its own business in its own name;
 - (c) maintain bank accounts, books, records, accounts and financial statements separate from any other entity;
 - (d) maintain its books, records, resolutions and agreements as official records and separate from any other entity;
 - (e) pay its own liabilities out of its own funds;
 - (f) maintain adequate capital in light of contemplated business operations;
 - (g) observe all corporate or other organizational formalities;
 - (h) maintain an arm's length relationship with its affiliates;
 - (i) pay the salaries of its own employees and maintain a sufficient number of employees in light of contemplated business operations;
 - (j) not guarantee or become obligated for the debts of any other entity or hold out its credit as being available to satisfy the obligations of others;
 - (k) not acquire obligations or securities of affiliates or shareholders;
 - (l) not make loans to any other person or entity;
 - (m) allocate fairly and reasonably any overhead for shared office space;
 - (n) use separate stationery, invoices, and checks;
 - (o) not pledge its assets for the benefit of any other entity;

- (p) hold itself out as a separate entity and correct any known misunderstanding regarding its status as a separate identity; and
 - (q) not identify itself or any of its affiliates as a division or part of the other.
4. The Board of Directors is to consider the interests of the Corporation's creditors in connection with all corporate actions.

EIGHTH: Any and all Corporation obligations to indemnify its directors and officers shall not constitute a claim against the Corporation, as long as the Loan is outstanding.

These Amended and Restated Articles of Incorporation were adopted by the unanimous written consent of the Directors and Shareholders of the Corporation on May 10, 1998.