

3/31/2004 14:34 CORPDI... 0380 NO 001  
**P97000041613**

Florida Department of State  
Division of Corporations  
Public Access System

Electronic Filing Cover Sheet

**Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.**

(((H04000068522 3)))

**Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.**

To:

Division of Corporations  
Fax Number : (850) 205-0380

From:

Account Name : CORPORATE & CRIMINAL RESEARCH SERVICES  
Account Number : 110450000714  
Phone : (850) 222-1173  
Fax Number : (850) 224-1640

0150.24969

**BASIC AMENDMENT**

**SAGAMORE GP CORP.**

Certificate of Status	0
Certified Copy	1
Page Count	06
Estimated Charge	\$43.75

RECEIVED

04 MAR 31 PM 12:49

DIVISION OF CORPORATIONS

FILED

04 MAR 31 PM 3:07

FLORIDA DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

Electronic Filing Menu

Corporate Filing

Public Access Help

*Amor*  
*3/31/04*

H04000068522 3

**ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
SAGAMORE GP CORP.**

FILED  
04 MAR 31 PM 3:07  
CLERK OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607.1006 of the Florida Business Corporation Act (the "Act"), the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

**FIRST:** The name of the corporation is SAGAMORE GP CORP. (the "Corporation").

**SECOND:** The Amendments to the Articles of Incorporation of the Corporation set forth below (the "Amendments") were adopted by all of the Directors of the Corporation at a meeting duly called and held on March 31, 2004, and approved by the sole shareholder of the Corporation, at a meeting duly called and held on March 31, 2004, in the manner prescribed by Section 607.1003 of the Act.

**THIRD:** The text of the Amendments are as follows:

(i) Article VI of the Articles of Incorporation of the Corporation shall be amended and restated in its entirety to read as follows:

**"ARTICLE VI**

The Board of Directors of the Corporation shall consist of at least one director, with the exact number to be fixed from time to time in the manner provided in the Corporation's Bylaws. At all times, the Board of Directors shall have at least one "Independent Director". "Independent Director" shall mean an individual that has not been at any time in the preceding five years, (a) a shareholder, director, officer, employee, partner or member of the Corporation or Sagamore Partners, Ltd., a Florida limited partnership (the "Partnership"), or any affiliate of either of them; (b) a customer, supplier or other person who derives any of its purchases or revenues from its activities with the Corporation or the Partnership or any affiliate of either of them; (c) a person or other entity controlling or under common control with any such shareholder, director, officer, employee, partner, member, customer, supplier or other person; or (d) a member of the immediate family of any such shareholder, director, officer, employee, partner, member, customer, supplier or other person."

(ii) The Articles of Incorporation of the Corporation shall be amended by the insertion of a new Article IX to read as follows:

**"ARTICLE IX**

The purpose (the "Purpose") of the Corporation is limited solely to (i) owning and holding the general partner interest in Sagamore Partners, Ltd., a

H04000068522 3

H04000068522 3

Florida limited partnership, (the "Property") and (ii) transacting any and all lawful business that is incident, necessary and appropriate to accomplish the foregoing."

(iii) The Articles of Incorporation of the Corporation shall be amended by the insertion of a new Article X to read as follows:

#### "ARTICLE X

The Corporation shall possess and may exercise all the powers and privileges granted by this Agreement, the Florida Business Corporation Act (the "Act") or all other applicable laws, together with any powers incidental thereto, so far as such powers and privileges shall be necessary or convenient for the conduct, promotion and attainment of the business, purposes or activities of the Corporation; provided, that notwithstanding any other provision of this Agreement to the contrary, the Corporation may not:

- (a) dissolve or liquidate, in whole or in part;
- (b) consolidate or merge with or into any other entity or convey or transfer its properties and assets substantially as an entirety to any person or entity;
- (c) amend or cause to be amended these Articles of Incorporation with respect to changing the sole purpose of the Corporation or the separateness covenants contained in Article XI hereof; or
- (e) take any action that might cause the Corporation to become insolvent."

(iv) The Articles of Incorporation of the Corporation shall be amended by the insertion of a new Article XI to read as follows:

#### "ARTICLE XI

Notwithstanding any other provision of this Agreement to the contrary, the Corporation shall:

- (a) maintain books and records separate from any other person or entity;
- (b) maintain its bank accounts separate from any other person or entity;
- (c) not commingle its funds and other assets with those of any other person or entity and hold all of its assets in its own name;
- (d) file its own tax returns;

H04000068522 3

H04000068522 3

(c) maintain its assets in such a manner that it is not costly or difficult to segregate, ascertain or identify its individual assets from those of any affiliate or any other person or entity;

(f) not do any act which would make it impossible to carry out its ordinary business;

(g) conduct its own business in its own name;

(h) maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other person or entity;

(i) pay its own liabilities and expenses only out of its own funds;

(j) as appropriate for the organizational structure of the Corporation, observe all corporate and other organizational formalities;

(k) maintain an office through which its business will be conducted separate and apart from those of its affiliates and maintain an arm's length relationship with its affiliates and enter into transactions with affiliates only on a commercially reasonable basis;

(l) pay the salaries of its own employees from its own funds;

(m) maintain a sufficient number of employees in light of its contemplated business operations;

(n) not guarantee or become obligated for the debts of any other entity or person;

(o) not hold out its credit as being available to satisfy the obligations of any other person or entity;

(p) not acquire the obligations or securities of its affiliates or owners, including partners, members or shareholders, as appropriate;

(q) not make loans to any other person or entity or buy or hold evidence of indebtedness issued by any other person or entity (except for cash and investment-grade securities);

(r) 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;

(s) use separate stationery, invoices and checks bearing its own name;

(t) not pledge its assets for the benefit of any other person or entity;

(u) hold itself out as a separate entity;

H04000068522 3

H04000068522 3

- identity;
- (v) correct any known misunderstanding regarding its separate
- (w) not identify itself as a division or part of any other person or entity;
- operations;
- (x) maintain adequate capital in light of its contemplated business
- shall become due;
- (y) be and remain solvent and pay its debt from its assets as the same
- operated;
- (z) conduct and operate its business as presently conducted and
- (aa) not acquire by purchase or otherwise all or substantially all of the
- business or assets of, or any stock or other evidence of beneficial ownership of, any entity;
- (bb) not hold title to the Corporation's assets other than in the
- Corporation's name; and
- (cc) observe all organizational formalities required by the Act."

(v) The Articles of Incorporation of the Corporation shall be amended by the insertion of a new Article XII to read as follows:

#### "ARTICLE XII

Notwithstanding any other provision of these Articles of Incorporation to the contrary, the unanimous consent of all shareholders is required for the Corporation to:

- (a) institute proceedings to be adjudicated bankrupt or insolvent;
- against it;
- (b) consent to the institution of bankruptcy or insolvency proceedings
- (c) file a petition seeking, or consent to, reorganization or relief under
- any applicable federal or state law relating to bankruptcy;
- (d) seek or consent to the appointment of a receiver, liquidator,
- conservator, assignee, trustee, sequestrator, custodian or any other similar official of the
- Corporation or a substantial part of its properties;
- (e) make any assignment for the benefit of creditors;
- become due;
- (f) admit in writing its inability to pay its debts generally as they

H04000068522 3

H04000068522 3

(g) otherwise seek relief under any laws relating to the relief from debts or the protection of debtors generally;

(h) take any action in furtherance of any of the preceding actions;

(i) engage in transactions with affiliates; or

(j) amend the organizational documents of the Corporation.

(vi) The Articles of Incorporation of the Corporation shall be amended by the insertion of a new Article XIII to read as follows:

#### **"ARTICLE XIII**

The Corporation shall not terminate or dissolve, and no shareholder shall have any authority to dissolve the Company without the prior written consent of the holder of a first mortgage loan on the real property known as the Sagamore Hotel located at 1671 Collins Avenue, Miami Beach, Florida 33139."

**FOURTH:** Except as hereby amended, the Articles of Incorporation of the Corporation shall remain the same.

**FIFTH:** The effective date of this amendment to the Articles of Incorporation of the Corporation shall be upon the filing of these Articles of Amendment to Articles of Incorporation.

*[The remainder of this page has been intentionally left blank.]*

H04000068522 3

IN WITNESS WHEREOF, the Corporation has caused these Articles of Amendment to Articles of Incorporation to be signed in its name by its Chairman of the Board and President as of the 31st day of March, 2004.

SAGAMORE GP CORP.

By: 

Martin W. Darlin  
Chairman of the Board and President