

Document Number Only

P97000104820

CT Corporation System

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City State Zip Phone

CORPORATION(S) NAME

400002696474--8  
-11/25/98--01041--019  
\*\*\*\*\*52.50 \*\*\*\*\*52.50

Brisben Santa Fe, Inc.

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98 NOV 25 PM 2:58  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

- ☐ Profit  
☐ NonProfit  
☒ Amendment  
☐ Merger  
☐ Foreign  
☐ Dissolution/Withdrawal  
☐ Limited Liability Company  
☐ Limited Partnership  
☐ Annual Report  
☐ Other  
☐ Reinstatement  
☐ Name Registration  
☐ Change of R.A.  
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Secretary of State

*WALK-IN  
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November 25, 1998

CT CORPORATION SYSTEM

TALLAHASSEE, FL

SUBJECT: BRISBEN SANTA FE, INC.  
Ref. Number: P97000104820

We have received your document for BRISBEN SANTA FE, INC. and your check(s) totaling \$52.50. However, the enclosed document has not been filed and is being returned for the following correction(s):

Please include the exhibit(s) referred to in your document.

THERE IS NO AMENDED ARTICLES ATTACHED.

Please return your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 487-6880.

Karen Gibson  
Corporate Specialist

Letter Number: 498A00056543

*ATTN: Karen  
Gibson  
Please  
Backdate  
Thank you*

RECEIVED  
NOV 29 PM 10:51  
DIVISION OF CORPORATIONS

AMENDED AND RESTATED  
**ARTICLES OF INCORPORATION  
OF  
BRISBEN SANTA FE, INC.**

**FILED**  
98 NOV 25 PM 2:58  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

*Pursuant to the provisions of section 607.1006, Florida Statutes, this Florida profit corporation adopts the following articles of amendment to its articles of incorporation:*

**FIRST:** Amendments(s) adopted: *(indicate article number(s) being amended, added or deleted)*

That the Articles of Incorporation be, amended to read in their entirety as set forth on Annex A attached hereto.

**SECOND:** If an amendment provides for an exchange, reclassification or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself, are as follows:

Not applicable

**THIRD:** The date of each amendment's adoption: October 29, 1998.

**FOURTH:** Adoption of Amendment(s) (CHECK ONE)

- ☒ The amendments(s) was/were approved by the shareholders. The number of votes cast for the amendment(s) was/were sufficient for approval.
- ☐ The amendment(s) was/were approved by the shareholders through voting groups.

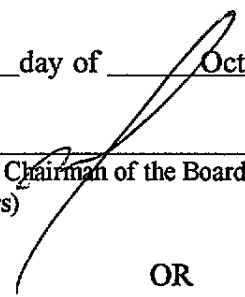
*The following statement must be separately provided for each voting group entitled to vote separately on the amendment(s):*

"The number of votes cast for the amendment(s) was/were sufficient for approval by \_\_\_\_\_  
voting group

- ☐ The amendment(s) was/were adopted by the board of directors without shareholder action and shareholder action was not required.
- ☐ The amendment(s) was/were adopted by the incorporators without shareholder action and shareholder action was not required.

Signed this 29<sup>th</sup> day of October, 1998 .

Signature

  
(By the Chairman or Vice Chairman of the Board of Directors, President or other officer if adopted by the shareholders)

OR

(By a director if adopted by the directors)

OR

(By an incorporator if adopted by the incorporators)

William O. Brishen

Typed or printed name

President

Title

ANNEX A

AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
BRISBEN SANTA FE, INC.

**FIRST:** The name of the Corporation is Brisben Santa Fe, Inc.

**SECOND:** The Corporation's mailing address is 2321 N.W. 33<sup>rd</sup> Street, Apartment 212, Fort Lauderdale, Florida 33309. The address of the Corporation's principal office is not known at this time.

**THIRD:** The sole purpose of this Corporation is to serve as general partner (the "General Partner") of The Bluffs at Tierra Contenta Limited Partnership, an Ohio limited partnership (the "Partnership").

The Corporation shall have the authority to buy or otherwise acquire, own, develop, hold, manage, control, lease, sell, operate, improve and otherwise deal with property of all kinds in connection with the Partnership and the Partnership's acquisition, development, construction, ownership, maintenance and operation of a multifamily apartment complex intended for rental to persons of low and moderate income, to be known as The Bluffs at Tierra Contenta, and to be located in Santa Fe, New Mexico (the "Project") and shall have the authority to exercise any and all other powers authorized under any laws that may be now or hereafter applicable to the Corporation, so long as such acts and activities are necessary, incidental or conducive to the attainment to its role or purpose as General Partner.

**FOURTH:** The number of shares which the Corporation is authorized to have outstanding is 7,500, all of which shall be \$1.00 par value and all of which shall be designated as common stock. Of these 7,500 shares, 3,750 shall be designated as Class A stock and 3,750 shall be designated as Class B stock. The shares shall have identical rights and privileges, with the exception that Class A stock shall have voting rights and Class B stock shall have no voting rights. The consideration to be paid for each share of stock shall be fixed by the Board of Directors.

**FIFTH:** The Corporation's initial registered agent and registered office in the State of Florida shall be:

Wilson C. Atkinson, III, Esq.  
c/o Atkinson, Diner, Stone & Mankuta, P.A.  
1946 Tyler Street  
P.O. Drawer 2088  
Hollywood, FL 33022-2088

**SIXTH:** When authorized by the affirmative vote of the Board of Directors, without the action or approval of the shareholders of the Corporation, the Corporation may purchase, or contract to purchase, at any time and from time to time, shares of any class issued by the Corporation, voting trust certificates for shares, bonds, debentures, notes, scrip, warrants, obligations, evidences of indebtedness or any other securities of the Corporation, for such prices and upon and subject to such terms and conditions as the Board of Directors may determine, provided that no such purchase shall be made, pursuant to any such contract or otherwise, if after such purchase the assets of the Corporation would be less than its liabilities plus stated capital or if it is insolvent as defined in the Florida statutes or if there is reasonable ground to believe that by such purchase it would be rendered insolvent.

**SEVENTH:** No holder of shares of any class of the Corporation shall, as such holder, have any pre-emptive rights to subscribe for or purchase shares of any class now or hereafter authorized, or to purchase or subscribe for securities convertible into or exchangeable for shares of the Corporation or to which shall be attached or appertain any warrants or rights entitling the holder thereof to subscribe for or purchase shares.

**EIGHTH:** The Corporation shall have at all times at least one Independent Director. The term "Independent Director" shall mean any person who (i) is not and for the prior five years has not been (a) a shareholder, officer, director, partner, employee, significant customer, creditor, supplier or independent contractor of the Corporation, its ultimate parent or any subsidiary or affiliate, or (b) a member of the immediate family of any of the foregoing, and (ii) does not directly or indirectly own any class of voting stock of the Corporation or any of its affiliates. The term "affiliate" shall mean any person controlling, under common control with, or controlled by the person in question. The term "control" shall mean the possession, directly or indirectly, of the power to direct or to cause the direction of the management and policies of a person, whether through ownership of voting securities, by contract or otherwise. If an Independent Director resigns, dies or becomes incapacitated, or such position is otherwise vacant, the Corporation shall not take any action requiring the unanimous affirmative vote of the Corporation's board of directors until a successor Independent Director is elected and qualified and approves such action.

**NINTH:** Unless approved by all of the members of the Corporation's board of directors:

(a) The Corporation shall not engage in any business activity other than in connection with or relating to the activities permitted in Article Third hereof.

(b) The Corporation shall not consolidate or merge with or into any other entity or convey, transfer or lease its properties and assets substantially as an entirety to any entity through liquidation, dissolution or otherwise.

(c) The funds and other assets of the Corporation shall not be commingled with those of any other individual, corporation, estate, partnership, joint venture, association, joint stock

company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

(d) The Corporation shall not hold itself out as being liable for the debts of any other entity, except as General Partner of the Partnership.

(e) The Corporation shall not form, or cause to be formed, any subsidiaries nor shall the Corporation permit the Partnership to form, or cause to be formed, any subsidiaries nor shall this Corporation acquire or cause the Partnership to acquire any interest as a general or limited partner in any partnership other than the Partnership as specified herein and as permitted by the Partnership's Agreement of Limited Partnership, as amended (the "Partnership Agreement").

(f) The Corporation shall act solely in its corporate name and through its duly authorized officers or agents in the conduct of its business, and shall conduct its business so as not to mislead others as to the identity of the entity with which they are concerned.

(g) The Corporation shall maintain corporate records and books of account and shall not commingle its corporate records and books of account with the corporate records and books of account of any such entity. The books of the Corporation may be kept (subject to any provision contained in applicable law) inside or outside of the State of Florida at such place or places as may be designated from time to time by the Board of Directors or in the Code of Regulations (Bylaws) of the Corporation.

(h) The Board of Directors of the Corporation shall hold appropriate meetings (or obtain written consents in lieu of meetings in accordance with applicable law) to authorize all of its corporate actions. Regular meetings of the Board of Directors shall be held not less frequently than once per annum.

(i) Meetings of the Shareholders of the Corporation shall be held not less frequently than once per annum.

(j) The Corporation shall not enter into any amendment of any document evidencing or securing securities issued in any transaction to which it was a party without the unanimous vote of its Board of Directors.

(k) No loans or guarantees of loans or other indebtedness to third parties shall be made by the Corporation and no shareholder shall guaranty, become liable on or hold itself out as being liable for the debts of the Corporation, except for such loan or guarantees as are given by the Corporation or its shareholders at the time the Partnership obtains the equity and debt financing to acquire, develop and construct the Project.

(l) The Corporation shall at all times ensure that its capitalization is adequate in light of its business and purpose.

(m) The Corporation shall not dissolve or liquidate, in whole or in part, while the Bonds, as defined in that certain Insurance and Indemnity Agreement dated November 1, 1998 (the "Insurance Agreement"), entered into by and among Financial Security Assurance, Inc. ("FSA"), the Corporation and the Partnership are outstanding.

(n) While the Bonds are outstanding, the Corporation shall not incur any indebtedness other than Permitted Indebtedness, as such term is defined in the Insurance Agreement.

(o) While the Bonds are outstanding, without the affirmative vote of its entire Board of Directors, including the Independent Director, neither the Corporation nor the shareholders of the Corporation shall: (i) institute any proceedings to adjudicate the Corporation or the Partnership as bankrupt or insolvent, (ii) consent to the institution of bankruptcy or insolvency proceedings against the Corporation or the Partnership, (iii) file a petition seeking or consent to reorganization or relief under any applicable federal or state law relating to bankruptcy with respect to the Corporation or the Partnership, (iv) consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Corporation or the Partnership or a substantial part of the property of either the Corporation or the Partnership, (v) make any assignment for the benefit of the Corporation's or the Partnership's creditors, (vi) cause the Corporation or the Partnership to admit in writing its inability to pay its debts generally as they become due, or (vii) take any action, or cause the Corporation or the Partnership to take any action, in furtherance of any of the foregoing.

(p) While the Bonds are outstanding, the Corporation, on behalf of itself or the Partnership, shall not, without the prior written consent of FSA, transfer to any person or entity any assets of the Corporation or the Partnership, except pursuant to the terms of the Transaction Documents (as such term is defined in the Insurance Agreement), and except that the Corporation may transfer assets in the ordinary course of its or the Partnership's business and may declare and pay dividends to its shareholders in accordance with law and as permitted by the Partnership Agreement and the Insurance Agreement.

**TENTH:** While the Bonds are outstanding, the Corporation shall not amend, alter, change or repeal any provision contained in these Amended and Restated Articles of Incorporation or the Corporation's Code of Regulations (Bylaws) without (a) the prior written consent of FSA, and (b) the affirmative vote of its entire Board of Directors, including the Independent Director, and (c) the confirmation of Standard & Poor's Ratings Group, a Division of The McGraw-Hill Companies, Inc., Moody's Investors Service and any other ratings agency rating the Bonds that such amendment, alteration, change or repeal will not cause a downgrading of the ratings assigned to the Bonds.

**ELEVENTH:** The amount of stated capital with which the Corporation shall begin business is not less than \$1,000.00.

**TWELFTH:** These Amended and Restated Articles of Incorporation supersede the existing Articles of Incorporation of the Corporation.