

SO2894

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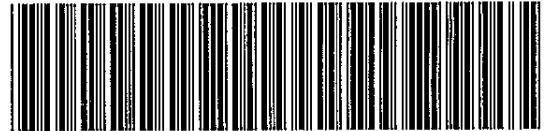
(Business Entity Name)

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Amended &

Restated

RECEIVED
05 MAR 16 PM 2:50
TALLAHASSEE, FLORIDA

FILED
05 MAR 16 PM 3:59
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

APR 3/16/05

X02250, 00579, 00524, 00672



CORPORATION SERVICE COMPANY

ACCOUNT NO. : 072100000032

REFERENCE : 248158 7356838

AUTHORIZATION : *Patricia Pigato*

COST LIMIT : \$ 87.50

ORDER DATE : March 9, 2005

ORDER TIME : 2:16 PM

ORDER NO. : 248158-005

CUSTOMER NO: 7356838

CUSTOMER: Ms. Jeane Dempsey
Smith, Gambrell & Russell LLP
Suite 2600
50 North Laura Street
Jacksonville, FL 32202

DOMESTIC AMENDMENT FILING

NAME: CEK OF LEON COUNTY, INC.

EFFECTIVE DATE:

 ARTICLES OF AMENDMENT
XX RESTATED ARTICLES OF INCORPORATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY **NEED 3 COPIES PLEASE**
XX CERTIFICATE OF GOOD STANDING **NEED 3 PLEASE**

CONTACT PERSON: Susie Knight -- EXT# 2956

EXAMINER'S INITIALS: _____



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood
Secretary of State

March 11, 2005

RESUBMIT

CSC
Atten: Susie Knight
1201 Hays Street
Tallahassee, FL 32301

SUBJECT: CEK OF LEON COUNTY, INC.
Ref. Number: S02894

We have received your document for CEK OF LEON COUNTY, INC. and the authorization to debit your account in the amount of \$87.50. However, the document has not been filed and is being returned for the following:

A certificate must accompany the Restated Articles of Incorporation setting forth either of the following statements: (1) The restatement was adopted by the board of directors and does not contain any amendment requiring shareholder approval. OR (2) If the restatement contains an amendment requiring shareholder approval, the date of adoption of the amendment and a statement setting forth the following: (a) the number of votes cast for the amendment by the shareholders was sufficient for approval (b) If more than one voting group was entitled to vote on the amendment, a statement designating each voting group entitled to vote separately on the amendment and a statement that the number of votes cast for the amendment by the shareholders in each voting group was sufficient for approval by that voting group.

Please see page 4 #20. There is a blank that you may want to fill in.

If you have any questions concerning the filing of your document, please call (850) 245-6907.

Annette Ramsey
Document Specialist

Letter Number: 205A00016957

RECEIVED
05 MAR 16 AM 8:47
DIVISION OF CORPORATION

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
CEK OF LEON COUNTY, INC.**

**FILED
05 MAR 16 PM 3:59
SECRETARY OF STATE
TALLAHASSEE, FLORIDA**

1. In accordance with the provisions of §607.1007 of the Florida Business Corporation Act, the undersigned corporation hereby amends and restates its Articles of Incorporation as follows:

ARTICLE I

NAME

The name of this corporation is CEK OF LEON COUNTY, INC. The street address of the corporation is 215 S. Monroe Street, Suite 400, Tallahassee, Florida 32301, and the mailing address of the corporation is Post Office Box 52135, Boston, Massachusetts 02205.

ARTICLE II

DURATION

This corporation shall have perpetual existence.

ARTICLE III

PURPOSE

The corporation is organized for the purpose of transacting any or all lawful business; provided, however that notwithstanding any other provision of this Certificate of Incorporation, for so long as any mortgage lien in favor of Deutsche Bank Mortgage Capital, L.L.C., its successors or assigns (the "First Mortgage") exists or any portion of the Property (as hereafter defined) the nature of the business and the purposes to be conducted and promoted by the corporation shall be to engage solely in the activity of acting as a general partner of CEK OF LEON COUNTY, LTD. (the "Owner"), whose sole purpose shall be to own, hold, sell, assign, transfer, operate, lease, mortgage, pledge and otherwise deal with certain parcels of real property, together with all improvements located thereon, located at 2000 N. Meridian Road, in the City of Tallahassee, State of Florida (the "Property"). The corporation shall exercise all powers enumerated in the State of Florida necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein, consistent with the limitations set forth above and elsewhere herein.

ARTICLE IV

CAPITAL SHARES

The aggregate number of shares which this corporation shall have authority to issue shall be One Hundred (100) of a par value of One Dollar and No/00 \$1.00 per share.

ARTICLE V

REGISTERED OFFICE AND REGISTERED AGENT

The address of the registered office of this corporation is 215 S. Monroe Street, Suite 400, Tallahassee, Florida 32301, and the name of the registered agent at that address is Jay Adams. Written acceptance by the resident agent of the appointment and the obligations of the position is on file with the Florida Department of State.

ARTICLE VI

PROHIBITED ACTIVITIES

Notwithstanding any other provision of this Certificate of Incorporation, for so long as the First Mortgage exists on any portion of the Property, the corporation: (i) shall cause the Owner to incur indebtedness only in an amount necessary to operate and maintain the Property; (ii) shall not, and shall not cause the Owner to, incur, assume, or guaranty any other indebtedness; (iii) shall not cause the Owner to dissolve, liquidate, merge or sell substantially all of its assets; (iv) shall not voluntarily commence a case with respect to itself or cause the Owner to voluntarily commence a case with respect to itself, as debtor, under the Federal Bankruptcy Code or any similar federal or state statute; (v) shall make no material amendment, including Articles III, VI, VII hereof, or amendments inconsistent therewith, to this Certificate of Incorporation or to the corporation's Bylaws without first obtaining approval of the holder of the First Mortgage, or, after the securitization of the Loan, only if the Owner receives (x) confirmation from each of the applicable rating agencies that the amendment would not result in the qualification, withdrawal or downgrade of any securities rating and (y) approval of the amendment by the holder of the First Mortgage.

For so long as the First Mortgage exists on any portion of the Property, no transfer of any direct or indirect ownership interest in the corporation may be made such that the transferee owns, in the aggregate with the ownership interests of its affiliates and family members in the corporation, more than a forty-nine percent (49%) interest in the corporation unless (i) the transfer is consented to in writing by the holder of the First Mortgage, and (ii) the applicable rating agencies confirm that the transfer will not result in a qualification, withdrawal or downgrade of any securities rating.

ARTICLE VII

SEPARATENESS COVENANTS

Notwithstanding any other provision of this Certificate of Incorporation, for so long as the First Mortgage exists on any portion of the Property, in order to preserve and ensure its separate and distinct corporate identity, in addition to the other provisions set forth in this Certificate of Incorporation, the corporation shall conduct its affairs in accordance with the following provisions:

1. It shall establish and maintain an office through which its business shall be conducted separate and apart from those of any affiliate or, if it shares office space with any affiliate, it shall allocate fairly and reasonably any overhead and expense for shared office space.

2. It will not engage, directly or indirectly, in any business other than to serve as the general partner of the Owner and it will conduct and operate its business as presently conducted and operated.

3. Its Board of Directors shall hold appropriate meetings (or act by unanimous consent) to authorize all appropriate corporate actions, and in authorizing such actions, shall observe all corporate formalities.

4. It will not enter into any contract or agreement with any affiliate of the corporation or any constituent party of the corporation except upon terms and conditions that are commercially reasonable and substantially similar to those that would be available on an arms-length basis with unrelated third parties.

5. It has not incurred and will not incur any indebtedness and will not permit the Owner to incur any indebtedness, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than (i) the indebtedness secured by the mortgage lien and (ii) trade payable or accrued expenses incurred in the ordinary course of the business of operating the Property with trade creditors and in amounts as are normal and reasonable under the circumstances. No indebtedness other than the indebtedness secured by the First Mortgage may be secured (subordinate or *pari passu*) by the Property.

6. It has not made and will not make any loans or advances to any third party including any affiliate of the corporation or constituent party of the corporation and shall not acquire obligations or securities of its affiliates.

7. It is and will remain solvent and will pay its debts and liabilities (including, as applicable, share personnel and overhead expenses) from its assets as the same shall become due.

8. It is done or caused to be done and will do all things necessary to observe organizational formalities and preserve its existence, and it will not amend, modify or otherwise change the Articles of Incorporation or Bylaws of the corporation without the prior written consent of the holder of the First Mortgage, or, after the securitization of the Loan, only if the corporation receives (i) confirmation from each of the applicable rating agencies that the amendment would not result in the qualification, withdrawal or downgrade for any securities rating and (ii) approval of the amendment by the holder of the First Mortgage.

9. It will maintain all of its books, records, financial statements and bank accounts separate from those of its affiliates and any constituent party and the corporation will file its own separate tax returns. It shall maintain its books, records, resolutions and agreements as official records.

10. It 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 the corporation or any constituent party of the corporation), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct and operate its 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 a separate telephone number and separate stationery, invoices and checks.

11. It will 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.

12. Neither it nor any constituent party will seek or permit the dissolution, winding up, liquidation, consolidation or merger in whole or in part, of the corporation, or acquire by purchase or otherwise all or substantially all the business or assets of, or any stock or other evidence of beneficial ownership of any other person or entity.

13. It will not commingle the funds and other assets of the corporation with those of any affiliate or constituent party, or any affiliate of any constituent party, or any other person.

14. It has and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets, as the case may be, from those of any affiliate or constituent party, or any affiliate of any constituent party, or any other person.

15. It shall not pledge its assets and does not and will not hold itself out to be responsible for the debts or obligations of any other person.

16. It shall pay any liabilities out of its own funds, including salaries of any employees.

17. It shall maintain a sufficient number of employees in light of its contemplated business operation.

18. It shall not guarantee or become obligated for the debts of any other entity or person.

19. It shall not form, acquire or hold any subsidiary other than the Owner.

20. It shall cause the Owner to comply with the provisions of Articles _____ of its Partnership Agreement.

For the purpose of this Article VII, the following terms shall have the following meanings:

"Affiliate" means any person controlling or controlled by or under common control with the corporation including, without limitation, (i) any person who has a familial relationship, by blood, marriage or otherwise with any director, officer or employee of the corporation, its parent, or any affiliate thereof, and (ii) any person which receives compensation for administrative, legal or accounting services from the corporation or any affiliate. For purposes of this definition, *"control"* when used with respect to any specified person, means the power to direct the management and policies of that person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms *"controlling"* and *"controlled"* have meanings correlative to the foregoing.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization, or government or any agency or political subdivision thereof.

ARTICLE VIII

INITIAL BOARD OF DIRECTORS

This corporation shall have one (1) Director initially. Thereafter, the number of Directors may be either increased or decreased from time to time in the manner provided by the Bylaws, but shall never be fewer than one (1).

ARTICLE IX

INDEMNIFICATION

The corporation shall have the power to indemnify all officers and directors and former officers and directors to the fullest extent possible under Florida law or as may be more fully set forth in the Bylaws. Notwithstanding any other provision of this Certificate of Incorporation, any indemnification of

the corporation's Directors and Officers shall be fully subordinated to any obligations respecting the Owner or the Property (including, without limitation, the first mortgage) and the indemnification shall not constitute a claim against the corporation or the Owner in the event that cash flow in excess of amounts necessary to pay holders of those obligations is insufficient to pay the obligations.

ARTICLE X

AMENDMENT

This corporation reserves the right to amend or repeal any provision contained in these Articles of Incorporation or any amendment hereto, and any right conferred upon the shareholders is subject to this reservation; provided, however, for so long as the First Mortgage exists on any portion of the Property, the provisions of Articles III, VI or VII shall not be amended without the prior written consent of the First Mortgage holder.

2. The date of the adoption of these Amended and Restated Articles of Incorporation by the directors and shareholders of this corporation is March 7, 2005.

3. These Amended and Restated Articles of Incorporation contain amendments requiring shareholder approval.

4. The number of votes cast by the shareholders for the adoption of these Amended and Restated Articles of Incorporation was sufficient for approval. Only one voting group of shareholders was entitled to vote on this amendment.

IN WITNESS WHEREOF, the undersigned has executed these Amended and Restated Articles of Incorporation this 14th day of March, 2005.

CEK OF LEON COUNTY, INC.

By: 

Charles M. Thompson, President