



SEMINOLE COUNTY  
 PLANNING & DEVELOPMENT DIVISION  
 1101 EAST FIRST STREET, ROOM 2028  
 SANFORD, FLORIDA 32771  
 (407) 665-7371 EPLANDESK@SEMINOLECOUNTYFL.GOV

PROJ. #: 26-06000004  
 RECEIVED AND PAID 01/12/2026

## SITE PLAN/DREDGE & FILL

**ALL INFORMATION MUST BE PROVIDED FOR APPLICATION TO BE CONSIDERED COMPLETE**

### APPLICATION TYPES/FEES

<input type="checkbox"/> <b>SMALL SITE PLAN</b> (<2,500 SQUARE FEET IMPERVIOUS SURFACE AREA SUBJECT FOR REVIEW)	\$500.00
<input type="checkbox"/> <b>RESTRIPING/RESURFACING PARKING</b> (WITH NO CHANGES TO THE EXISTING LAYOUT)	
<input type="checkbox"/> <b>FILL</b> (≥100 CUBIC YARDS OF FILL AND/OR IN FLOOD PLAIN OR WETLAND PER SEC. 40.2)	\$500.00
<input type="checkbox"/> <b>DREDGE AND FILL</b>	\$750.00
<input checked="" type="checkbox"/> <b>SITE PLAN</b> (>2,500 SQUARE FEET IMPERVIOUS SURFACE AREA SUBJECT FOR REVIEW)	CALCULATED BELOW MAXIMUM \$9,000
<p><b>NEW BUILDING SQUARE FOOTAGE:</b> <u>7828 sf</u> + <b>NEW PAVEMENT SQUARE FOOTAGE:</b> <u>43,016 sf</u> =  <b>TOTAL SQUARE FEET OF NEW IMPERVIOUS SURFACE AREA (ISA) SUBJECT FOR REVIEW:</b> <u>50,844 sf</u></p> <p>(TOTAL NEW ISA <u>50,844</u> /1,000 = <u>50.84</u> ) * x \$25 + \$2,500 = <b>FEE DUE:</b> <u>\$3771.00</u></p> <p><u>EXAMPLE:</u> 40,578 SF OF NEW ISA SUBJECT FOR REVIEW = 40,578/1,000 = <u>40.58*</u> x \$25 = <u>\$1,014.50</u> + \$2,500 = <u>\$3,514.50</u></p> <p>*ROUNDED TO 2 DECIMAL POINTS</p>	

### PROJECT

PROJECT NAME: Olive Garden Red Bug Lake Road			
PARCEL ID #(S): 1921315140000020			
DESCRIPTION OF PROJECT: Demolition of current structure, erection of new structure			
EXISTING USE(S): Restaurant		PROPOSED USE(S): Restaurant	
ZONING: PD	FUTURE LAND USE: PD	TOTAL ACREAGE: 1.79 ac	BCC DISTRICT: District 1
WATER PROVIDER: Seminole County		SEWER PROVIDER: Seminole County	
ARE ANY TREES BEING REMOVED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> (IF YES, ATTACH COMPLETED ARBOR APPLICATION)			
IF DREDGE & FILL OR FILL PERMIT, CUBIC YARDS OF FILL PROPOSED:			

<b>APPLICANT</b>		EPLAN PRIVILEGES: VIEW ONLY <input type="checkbox"/> UPLOAD <input checked="" type="checkbox"/> NONE <input type="checkbox"/>	
NAME: Bob Fields	COMPANY: Darden Restaurants		
ADDRESS: 1000 Darden Center Drive			
CITY: Orlando	STATE: Florida	ZIP: 32837	
PHONE: (407) 245-4577	EMAIL: [REDACTED]		

<b>CONSULTANT</b>		EPLAN PRIVILEGES: VIEW ONLY <input type="checkbox"/> UPLOAD <input checked="" type="checkbox"/> NONE <input type="checkbox"/>	
NAME: Janie Schaumburg	COMPANY: JSD Professional Services		
ADDRESS: 1400 East Touhy Ave			
CITY: Des Plaines	STATE: Illinois	ZIP: 60018	
PHONE: (847) 219-1513	EMAIL: [REDACTED]		

<b>OWNER(S)</b>		(INCLUDE NOTARIZED OWNER'S AUTHORIZATION FORM)	
NAME(S): Gorby Fountains Properties, LLC	Phyllis Gorby Kelley		
ADDRESS: 21550 Oxnard Street, Suite 1000			
CITY: Woodland Hills	STATE: California	ZIP: 91367	
PHONE: (949) 432-4504	EMAIL: [REDACTED]		

<b>CONCURRENCY REVIEW MANAGEMENT SYSTEM (SELECT ONE)</b>		
<input type="checkbox"/> I hereby declare and assert that the aforementioned proposal and property described are covered by a valid previously issued Certificate of Vesting or a prior Concurrency determination (Test Notice issued within the past two years as identified below. (Please attach a copy of the Certificate of Vesting or Test Notice.)		
<u>TYPE OF CERTIFICATE</u>	<u>CERTIFICATE NUMBER</u>	<u>DATE ISSUED</u>
VESTING:	_____	_____
TEST NOTICE:	_____	_____
<input checked="" type="checkbox"/> Concurrency Application and appropriate fee are attached. I wish to encumber capacity at an early point in the development process and understand that only upon approval of the Development Order and the full payment of applicable facility reservation fees is a Certificate of Concurrency issued and entered into the Concurrency Management monitoring system.		
<input type="checkbox"/> Not applicable		

I understand that the application for site plan review must include all required submittals as specified in Chapter 40, Part 4, of the Seminole County Land Development Code. Submission of incomplete plans may create delays in review and plan approval. **The review fee provides for two plan reviews. Additional reviews will require an additional fee.**

I hereby represent that I have the lawful right and authority to file this application.

**Robert Fields** Digitally signed by Robert Fields  
DN: E=RFfields@darden.com, CN=Robert Fields, OU=Users,  
OU=RSC, DC=darden, DC=com  
Location: Orlando, FL  
Date: 2025.12.17 16:33:08-0500

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**SIGNATURE OF AUTHORIZED APPLICANT** **DATE**

# OWNER AUTHORIZATION FORM

An authorized applicant is defined as:

- The property owner of record; or
- An agent of said property owner (power of attorney to represent and bind the property owner must be submitted with the application); or
- Contract purchase (a copy of a fully executed sales contract must be submitted with the application containing a clause or clauses allowing an application to be filed).

I, Phyllis Gorby Kelley, the owner of record for the following described property (Tax/Parcel ID Number) 1921315140000002 hereby designates Janie Schaumburg, JSD Professional Services to act as my authorized agent for the filing of the attached application(s) for:

<input type="checkbox"/> Arbor Permit	<input type="checkbox"/> Construction Revision	<input type="checkbox"/> Final Engineering	<input type="checkbox"/> Final Plat
<input type="checkbox"/> Future Land Use	<input type="checkbox"/> Lot Split/Reconfiguration	<input type="checkbox"/> Minor Plat	<input type="checkbox"/> Special Event
<input type="checkbox"/> Preliminary Sub. Plan	<input checked="" type="checkbox"/> Site Plan	<input type="checkbox"/> Special Exception	<input type="checkbox"/> Rezone
<input type="checkbox"/> Vacate	<input type="checkbox"/> Variance	<input type="checkbox"/> Temporary Use	<input type="checkbox"/> Other (please list):

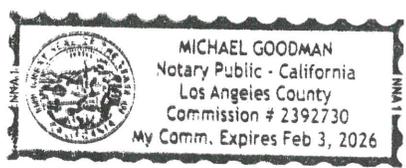
**OTHER:** \_\_\_\_\_  
 and make binding statements and commitments regarding the request(s). I certify that I have examined the attached application(s) and that all statements and diagrams submitted are true and accurate to the best of my knowledge. Further, I understand that this application, attachments, and fees become part of the Official Records of Seminole County, Florida and are not returnable.

1-7-26  
 \_\_\_\_\_  
 Date

Phyllis Gorby Kelley  
 Property Owner's Signature  
Phyllis Gorby Kelley  
 Property Owner's Printed Name

STATE OF ~~FLORIDA~~ California  
 COUNTY OF VENTURA

SWORN TO AND SUBSCRIBED before me, an officer duly authorized in the State of ~~Florida~~ California to take acknowledgements, appeared Phyllis Gorby Kelley (property owner),  
 by means of physical presence or  online notarization; and  who is personally known to me or  who has produced California Drivers License as identification, and who executed the foregoing instrument and sworn an oath on this 7<sup>th</sup> day of January, 2026.



Michael Goodman  
 Notary Public

**SEMINOLE COUNTY  
APPLICATION & AFFIDAVIT**

**Ownership Disclosure Form**

The owner of the real property associated with this application is a/an (check one):

*GORBY FOUNTAINS PROPERTIES LLC*

- Individual                                       Corporation                                       Land Trust  
 Limited Liability Company                                       Partnership                                       Other (describe): \_\_\_\_\_

1. List all **natural persons** who have an ownership interest in the property, which is the subject matter of this petition, by name and address.

NAME	ADDRESS	PHONE NUMBER

(Use additional sheets for more space)

2. For each **corporation**, list the name, address, and title of each officer; the name and address of each director of the corporation; and the name and address of each shareholder who owns two percent (2%) or more of the stock of the corporation. Shareholders need not be disclosed if a corporation's stock are traded publicly on any national stock exchange.

NAME - <i>GG2, INC.</i>	TITLE OR OFFICE	ADDRESS	% OF INTEREST
<i>JANIS KUMMER</i>	<i>OFFICER/OWNER</i>	<i>c/o 2660 Townsgate Rd #130</i>	<i>50</i>
<i>PHYLLIS GORBY KELLEY</i>	<i>OFFICER/OWNER</i>	<i>c/o 2660 Townsgate Rd #130</i>	<i>50</i>

(Use additional sheets for more space)

3. In the case of a **trust**, list the name and address of each trustee and the name and address of the beneficiaries of the trust and the percentage of interest of each beneficiary. If any trustee or beneficiary of a trust is a corporation, please provide the information required in paragraph 2 above:

Trust Name: \_\_\_\_\_

NAME	TRUSTEE OR BENEFICIARY	ADDRESS	% OF INTEREST

(Use additional sheets for more space)

4. For **partnerships**, including limited partnerships, list the name and address of each principal in the partnership, including general or limited partners. If any partner is a corporation, please provide the information required in paragraph 2 above.

<i>GORBY FOUNTAINS LP</i> NAME	ADDRESS	% OF INTEREST
<i>JANIS KUMMER</i>	<i>c/o 2660 Townsgate Rd #130</i>	<i>39.3</i>
<i>PHYLLIS GORBY KELLEY</i>	<i>c/o 2660 Townsgate Rd #130</i>	<i>39.3</i>
<i>LAURIE SHAPIRO</i>	<i>c/o 2660 Townsgate Rd #130</i>	<i>20</i>
<i>GG 2</i>	<i>c/o 2660 Townsgate Rd #130</i>	<i>1.4</i>

(Use additional sheets for more space)

5. For each **limited liability company**, list the name, address, and title of each manager or managing member; and the name and address of each additional member with two percent (2%) or more membership interest. If any member with two percent (2%) or more membership interest, manager, or managing member is a corporation, trust or partnership, please provide the information required in paragraphs 2, 3 and/or 4 above.

Name of LLC: Gorby Fountains Properties LLC

NAME	TITLE	ADDRESS	% OF INTEREST
CGZ	MANAGER	40 2660 Townsgate Rd #130	1.2
GORBY FOUNTAINS LP	Member	40 2660 Townsgate Rd #130	88.3

(Use additional sheets for more space)

6. In the circumstances of a **contract for purchase**, list the name and address of each contract purchaser. If the purchaser is a corporation, trust, partnership, or LLC, provide the information required for those entities in paragraphs 2, 3, 4 and/or 5 above.

Name of Purchaser: \_\_\_\_\_

NAME	ADDRESS	% OF INTEREST

(Use additional sheets for more space)

Date of Contract: \_\_\_\_\_

Specify any contingency clause related to the outcome for consideration of the application: \_\_\_\_\_

7. As to any type of owner referred to above, a change of ownership occurring subsequent to this application, shall be disclosed in writing to the Planning and Development Director prior to the date of the public hearing on the application.
8. I affirm that the above representations are true and are based upon my personal knowledge and belief after all reasonable inquiry. I understand that any failure to make mandated disclosures is grounds for the subject Rezone, Future Land Use Amendment, Special Exception, or Variance involved with this Application to become void. I certify that I am legally authorized to execute this Application and Affidavit and to bind the Applicant to the disclosures herein:

1-7-26  
Date

Phyllis Gorby Kelley  
Owner, Agent, Applicant Signature

STATE OF ~~FLORIDA~~ CALIFORNIA  
COUNTY OF ~~SEMINOLE~~ VENTURA

Sworn to and subscribed before me by means of  physical presence or  online notarization, this 7<sup>th</sup> day of January, 2026, by Phyllis Gorby Kelley, who is  personally known to me, or  has produced \_\_\_\_\_ as identification.

Michael Goodman  
Signature of Notary Public



**OPERATING AGREEMENT**  
**FOR**  
**GORBY FOUNTAINS PROPERTIES, LLC**

THE SECURITIES REPRESENTED BY THIS AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 NOR REGISTERED NOR QUALIFIED UNDER ANY STATE SECURITIES LAWS. SUCH SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, DELIVERED AFTER SALE, TRANSFERRED, [PLEGGED, OR HYPOTHECATED] UNLESS QUALIFIED AND REGISTERED UNDER APPLICABLE STATE AND FEDERAL SECURITIES LAWS OR UNLESS, IN THE OPINION OF COUNSEL SATISFACTORY TO THE COMPANY, SUCH QUALIFICATION AND REGISTRATION IS NOT REQUIRED. ANY TRANSFER OF THE SECURITIES REPRESENTED BY THIS AGREEMENT IS FURTHER SUBJECT TO OTHER RESTRICTIONS, TERMS AND CONDITIONS WHICH ARE SET FORTH HEREIN.

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EXHIBITS:

- Exhibit A Form of Articles of Organization
- Exhibit B Member Information

**OPERATING AGREEMENT  
FOR  
GORBY FOUNTAINS PROPERTIES, LLC**

THIS OPERATING AGREEMENT ("Agreement") is entered into as of January 1, 2022, by the Persons signing this Agreement (referred to individually as a "Member" and collectively as the "Members").

A. The Initial Member formed a limited liability company ("Company") under the California Uniform Revised Limited Liability Company Act, on December 1, 2021, and as of December 31, 2021, assigned its Membership Interest to the Members.

B. The Members are entering into this Agreement in order to form and to provide for the governance of the Company and the conduct of its business, and to specify their relative rights and obligations.

NOW THEREFORE, the Members agree as follows:

**ARTICLE I  
DEFINITIONS**

The terms used in this Agreement with their initial letters capitalized shall, unless the context otherwise requires, have the meanings specified in this Article I or, if not defined in this Article I, as defined elsewhere in this Agreement. When used in this Agreement, the following terms shall have the meanings set forth below:

**1.1** "Act" means the Revised Uniform Limited Liability Company Act (California Corporations Code §§17701.01-1713.12), including amendments from time to time.

**1.2** "Adjusted Capital Contributions" means, for each Member at any time, the excess, if any, of such Member's Capital Contributions over all prior distributions under Sections 4.13 and 4.14 below.

**1.3** "Adjusted Capital Account Deficit" is defined in Section 4.3(a) below.

**1.4** "Affiliate" of a Member means any Person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such Member. The term "control" (including the terms "controlled by" and "under common control with") means

possession of the power to direct or cause the direction of the management and policies of a Person, whether through membership, ownership of voting securities, by contract or otherwise.

1.5 "**Agreement**" means this Agreement, as originally executed and as amended from time to time.

1.6 "**Articles of Organization**" is defined in Corporations Code Section 17001(b).

1.7 "**Assignee**" means a Person who has acquired a Member's Economic Interest in the Company, by way of a Transfer in accordance with the terms of this Agreement, but who has not yet become a Member.

1.8 "**Assigning Member**" means a Member who by means of a Transfer has transferred an Economic Interest in the Company to an Assignee.

1.9 "**Available Cash**" means all net revenues from the Company's operations (including, without limitation, net proceeds from all sales, refinancings and other dispositions of Company property) that the Manager, in the Manager's sole discretion, deems in excess of the amount reasonably necessary for the operating requirements of the Company, including debt reduction and Reserves.

1.10 "**Award**" is defined in Section 8.5 below.

1.11 "**Bankruptcy**" shall mean, (i) the entry of a decree or order for relief against a Member by a court of competent jurisdiction in any involuntary case brought against the Member under any bankruptcy, insolvency or other similar law (collectively, "**Debtor Relief Laws**") generally affecting the rights of creditors and relief of debtors now or hereafter in effect; (ii) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar agent under applicable Debtor Relief Laws for the Member or for any substantial part of its assets or property; (iii) the ordering of the winding up or liquidation of a Member's affairs, (iv) the filing of a petition in any such involuntary bankruptcy case, which petition remains not dismissed for a period of one hundred eighty (180) days or which is not dismissed or suspended pursuant to Section 305 of the Federal Bankruptcy Code (or any corresponding provision of any future United States Bankruptcy law); (v) the commencement by a Member of a voluntary case under any applicable Debtor Relief Law now or hereafter in effect; (vi) the consent by a Member to the entry of an order for relief in an involuntary case under any such law or to the appointment of or the taking of possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar agent under any applicable Debtor Relief Laws for the Member or for any substantial part of its assets or property; or (vii) the making by a Member of any general assignment for the benefit of its creditors.

- 1.12 "**Book Depreciation**" is defined in Section 4.3(b) below.
- 1.13 "**Bona Fide Offer**" is defined in Section 8.3(a) below.
- 1.14 "**Business**" is defined in Section 2.5 below.
- 1.15 "**Capital Account**" means, with respect to any Member, the account maintained and adjusted in accordance with Section 3.5 below.
- 1.16 "**Capital Contribution**" means, with respect to any Member, the amount of the money and the Fair Market Value of any property (other than money) contributed to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take "subject to" under IRC Section 752) in consideration of a Percentage Interest held by such Member. A Capital Contribution shall not be deemed a loan.
- 1.17 "**Capital Event**" means a sale or disposition of any of the Company's capital assets, the receipt of insurance and other proceeds derived from the involuntary conversion of Company property, the receipt of proceeds from a refinancing of Company property or a similar event with respect to Company property or assets.
- 1.18 "**Code**" or "**IRC**" means the Internal Revenue Code of 1986, as amended, and any successor statutes.
- 1.19 "**Company**" means the company named in Section 2.2 of this Agreement.
- 1.20 "**Company Minimum Gain**" is defined in Section 4.3(c) below.
- 1.21 "**Confidential Information**" is defined in Section 10.2 below.
- 1.22 "**Corporations Code**" means the California Corporations Code, as amended, and any successor statute.
- 1.23 "**Economic Interest**" means a Person's right to share in the income, gains, losses, deductions, credit or similar items of, and to receive distributions from, the Company, but does not include any other rights of a Member, including the right to vote or to participate in management of the Company.
- 1.24 "**Effective Date**" means the date of this Agreement first above written.

1.25 "**Encumber**" means the act of creating or purporting to create an Encumbrance, whether or not perfected under applicable law.

1.26 "**Encumbrance**" means, with respect to any Membership Interest, or any element thereof, a mortgage, pledge, security interest, lien, proxy coupled with an interest (other than as contemplated in this Agreement), option or preferential right to purchase.

1.27 "**Expiration Date**" is defined in Section 8.5(b) below.

1.28 "**Fair Market Value**" means, with respect to any item of property of the Company, such item's adjusted basis for federal income tax purposes, except as follows:

(a) The Fair Market Value of any property contributed by a Member to the Company shall be the value of such property, as mutually agreed upon by the contributing Member and the Company.

(b) The Fair Market Value of any item of Company property distributed to any Member shall be the value of such property on the date of distribution, as mutually agreed upon by the distributee Member and the Company.

(c) The Fair Market Value of Company property shall be subject to the adjustments specified in Section 4.11 below.

1.29 "**Initial Member**" means Fountains Mobile Home Park, L.P.

1.30 **[Intentionally Omitted]**

1.31 "**Involuntary Transfer**" means, with respect to any Membership Interest, or any element thereof, any Transfer or Encumbrance, whether by operation of law, pursuant to court order, foreclosure of a security interest, execution of a judgment or other legal process, or otherwise, including a purported Transfer to or from a trustee, receiver or assignee in Bankruptcy.

1.32 "**Majority of Members**" means a Member or Members whose aggregate Percentage Interests represent more than fifty percent (50%) of the Percentage Interests of all Members.

1.33 "**Manager**" or "**Managers**" means the Person(s) named as such in Section 2.8 or the Person who from time to time succeeds any Person as a Manager and who, in either case, is serving at the relevant time as a Manager.

1.34 "**Member**" means an Initial Member or a Person who otherwise acquires a Membership Interest, as permitted under this Agreement, and who remains a Member. The Company shall at all times have at least two (2) Members.

1.35 "**Member Nonrecourse Debt**" is defined in Section 4.3(d) below.

1.36 "**Member Nonrecourse Debt Minimum Gain**" is defined in Section 4.3(e) below.

1.37 "**Member Nonrecourse Deductions**" is defined in Section 4.3(f) below.

1.38 "**Membership Interest**" means a Member's rights in the Company, collectively, including the Member's Economic Interest, any right to Vote or participate in management and any right to information concerning the Business and affairs of the Company.

1.39 "**Membership Interest Certificate**" is defined in Section 7.3 below.

1.40 "**Nondefaulting Member**" is defined in Section 3.4(a) below.

1.41 "**Nonrecourse Deductions**" is defined in Section 4.3(g) below.

1.42 "**Nonrecourse Liability**" is defined in Section 4.3(h) below.

1.43 "**Notice**" or "**Notices**" shall mean any notice, request, approval, demand and other communication required or permitted to be given under this Agreement. All Notices shall be in writing and shall be served personally, or sent by a national overnight delivery or courier company, or by United States registered or certified mail, postage prepaid, return receipt requested, and addressed to the recipient at the address reflected for such Person in the Company's records. Any such Notices shall be deemed delivered upon delivery or refusal to accept delivery as indicated in writing by the Person attempting to make personal service, on the U.S. Postal Service return receipt, or by similar written advice from the overnight delivery company; provided, however, that if any such Notice shall also be sent by electronic transmission device, such as telex, telecopy, fax machine or computer to the fax number, if any, set forth above, such Notice shall be deemed given at the time and on the date of machine transmittal (except if sent after 5:00 p.m. recipient's time, then the notice shall be deemed given at 9:00 a.m. on the next business day) if the sending Person receives a written send verification on its machine and sends a duplicate Notice on the same day or the next business day by personal service, registered or certified United States mail, or overnight delivery in the manner described above. Each Member (and any Manager) shall make an ordinary, good faith effort to ensure that such Person will accept or receive Notices that are

given in accordance with this Section 1.42 and that any Person to be given Notice actually receives such Notice. Any party to whom Notices are to be sent pursuant to this Agreement may from time to time change its address and/or facsimile number for future communication hereunder by giving Notice in the manner prescribed herein to all other parties hereto, provided that the address and/or facsimile number change shall not be effective until five (5) business days after the Notice of change has been given.

1.44 "**Option Date**" is defined in Section 8.7 below.

1.45 "**Percent of the Members**" means the specified total of the Percentage Interests of all Members.

1.46 "**Percentage Interest**" means the percentage interest shown for each Member on Exhibit "B" attached hereto.

1.47 "**Person**" means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company or other entity, whether domestic or foreign.

1.48 "**President**" is defined in Section 5.8 below.

1.49 "**Profits**" and "**Losses**" are defined in Section 4.2 below.

1.50 "**Property**" means real property interests, subject to all existing liens, encumbrances, covenants, conditions, restrictions and other matters affecting the same as of the effective date, whether or not of record, personal property, easements, appurtenances and rights on, related to or for the benefit of the same, including leasehold interests, as well as interests in entities that own real and personal property.

1.51 "**Proxy**" has the meaning set forth in the first paragraph of Corporations Code §17001(ai). A Proxy may not be transmitted orally.

1.52 "**Qualified Income Offset**" is defined in Section 4.4(c) below.

1.53 "**Regulations**" means the income tax regulations promulgated by the United States Department of the Treasury and published in the Federal Register for the purpose of interpreting and applying the provisions of the Code, as such Regulations may be amended from time to time, including corresponding provisions of applicable successor regulations.

1.54 "**Reserves**" means the aggregate of reserve accounts that the Manager, in the Manager's sole discretion, deems reasonably necessary to meet accrued or contingent

liabilities of the Company, reasonably anticipated operating expenses and working capital requirements.

1.55 "Securities Acts" is defined in Section 13.3 below.

1.56 "Substituted Member" is defined in Section 8.9 below.

1.57 "Successor in Interest" means an Assignee, a successor of a Person by merger or otherwise by operation of law, or a transferee of all or substantially all of the business or assets of a Person.

1.58 "Tax Item" means each item of income, gain, loss, deduction or credit, of the Company.

1.59 "Tax Matters Member" means such Person as may be designated under Section 6.6 below.

1.60 "Transfer" means, with respect to a Membership Interest or any element of a Membership Interest, any sale, assignment, gift, Involuntary Transfer, Encumbrance or other disposition of such Membership Interest or any element of such Membership Interest, directly or indirectly, other than an Encumbrance that is expressly permitted under this Agreement.

1.61 "Triggering Events" are defined in Section 8.4 below.

1.62 "Vote" means a written consent or approval, a ballot cast at a meeting or a voice vote.

1.63 "Voting Interest" means, with respect to a Member, the right to Vote or participate in management and any right to information concerning the Business and affairs of the Company which is provided under the Act, except as limited by the provisions of this Agreement. A Member's Voting Interest shall be directly proportionate to that Member's Percentage Interest.

## ARTICLE II ARTICLES OF ORGANIZATION

2.1 Articles of Organization. The Articles of Organization were filed with the California Secretary of State on December 1, 2021. A copy of the Articles of Organization as filed is attached to this Agreement as Exhibit "A".

**2.2 Name of Company.** The name of the Company is Gorby Fountains Properties, LLC. The phrase "LLC" shall always appear as part of the name of the Company on all correspondence, stationery, checks, invoices and any and all documents and papers executed by the Company and as otherwise required by the Act.

**2.3 Principal Office and Other Places.** The principal executive office of the Company shall be at 21550 Oxnard Street, Suite 1000, Woodland Hills, CA 91367, or such other place or places as may be determined by the Manager from time to time. The Members may identify other places of business of the Company inside and outside the State of California and appoint agents for service of process and make filings as may be required or desirable under the laws of such other places outside the State of California.

**2.4 Agent for Service.** The Company shall have an agent for service of process in California who may be either a natural Person or a corporation meeting the qualifications of Corporations Code Section 17061(d)(1) and Section 17050(a)(5). Every agent for service of process must have a street address for the service of process. The street address of the agent for service of process is the registered office of the Company in this state. Within thirty (30) days after changing the location of its office from one address to another in this state, an agent for service of process must file a certificate with the Secretary of State setting forth the names of the limited liability companies represented by such agent, the address at which the agent has maintained the office for each of the limited liability companies and the agent's new office address. The initial agent for service of process on the Company shall be Edward Gorelick, whose address is 21550 Oxnard Street, Suite 1000, Woodland Hills, CA 91367. The Manager may from time to time change the Company's agent for service of process.

**2.5 Purpose.** The Company has been formed for the specific purpose of engaging in the ownership of the Property for investment (the "Business") and any other lawful act or activity for which a limited liability company may be organized under the Act. The Members intend the Company to be a limited liability company under the Act. Neither the Manager nor any Member shall take any action inconsistent with the express intent of the parties to this Agreement.

**2.6 Term.** The term of existence of the Company shall commence on the effective date of filing the Articles of Organization with the California Secretary of State, and shall terminate December 31, 2075, unless extended or terminated by the provisions of this Agreement or as provided by law.

**2.7 Member Information.** The names and addresses of the Members are as set forth in Exhibit "B".

**2.8 Manager Information.** The name and business address of the Manager are as follows:

<b>Name</b>	<b>Address</b>
GG2, Inc.	10960 Wilshire Blvd., Suite 700 Los Angeles, CA 90024

### ARTICLE III CAPITAL AND CAPITAL CONTRIBUTIONS

**3.1 Initial Capital Contribution.** The Initial Member contributed its interests in the Property to the Capital of the Company as its initial Capital Contribution. It assigned its Member Interest to certain of its general and limited partners upon its liquidation and dissolution as of December 31, 2021. The Members and their Percentage Interests are reflected on Exhibit "B".

**3.2 Additional Capital Contributions.**

(a) Except as provided in this Section 3.2, no Member shall be required to make any additional Capital Contributions and no Member may voluntarily make any additional Capital Contribution.

(b) The Manager may determine from time to time that Capital Contributions in addition to the Members' initial Capital Contributions are needed to enable the Company to conduct its Business. On making such a determination, the Manager shall give notice to all Members in writing at least thirty (30) days before the date on which such additional Capital Contributions are needed. The Notice shall set forth the amount of additional Capital Contributions needed, the purpose therefor and the date by which they are needed. If within fifteen (15) days after such notice is given a Majority of Members approved such determination, such additional Capital Contributions shall be made by the Members in accordance with their respective Percentage Interests.

**3.3 Failure to Make Additional Capital Contributions.** If a Member does not timely contribute capital when required pursuant to Section 3.2, that member shall not be in default under this Agreement. However, if a Member (the "Non-contributing Member") does not contribute such Member's share of capital to the Company as required, the remaining Members (the "Contributing Members") who hold a majority of the Percentage Interests held by all Contributing Members may elect any one or more of the following upon ten (10) days prior written notice to the Non-Contributing Member.

(a) The Contributing Members may loan funds to the Company to cover those amounts which the Non-contributing Member fails to contribute. Amounts which a Contributing Member so advances on behalf of the Non-contributing Member shall become a loan due and owing from the Non-Contributing Member to such Contributing Member and bear interest at an annual rate equal to the maximum legal interest rate which may be charged applicable to the loan, at the time of the loan. All cash distributions otherwise distributable to the Non-contributing Member under this Agreement shall instead be distributed on behalf of the Non-contributing Member to the Contributing Members making such advances until such advances and interest thereon are paid in full. Any amounts repaid shall first be applied to interest and thereafter to principal.

(b) The Company may borrow an amount equal to all or a portion of the Non-contributing Member's share of such additional capital, and the amount so borrowed and all expense incurred by the Company in connection with such borrowing (including, without limitation, interest, loan charges and attorneys' fees) shall be paid out of the first distributions by the Company which otherwise would have been made to the Non-contributing Member, but accounted for as distribution to the Non-contributing Member.

### **3.4 Intentionally Omitted**

**3.5 Capital Account.** Individual Capital Accounts for each Member shall be maintained and adjusted in accordance with the following provisions:

(a) A Member's Capital Account shall be increased by that Member's Capital Contributions, that Member's share of Profits and any items in the nature of income or gain that are allocated to that Member pursuant to Article IV.

(b) A Member's Capital Account shall be increased by the amount from time to time of any Company liabilities assumed by that Member, and decreased by the amount from time to time of that Member's individual liabilities that are assumed by the Company, all subject to and in accordance with the provisions of Regulations §1.704-1(b)(2)(iv)(c).

(c) A Member's Capital Account shall be decreased by (a) the amount of cash distributed to that Member which is not in repayment of any loans to the Company or as payment for services rendered to the Company (but only if such repayment or payment is authorized under the terms of this Agreement); (b) the Fair Market Value of any property of the Company so distributed, net of liabilities secured by such distributed property, that the distributee Member is considered to assume or to be subject to under IRC Section 752; and

(c) the amount of any items in the nature of expenses or losses that are allocated to that Member pursuant to Article IV.

(d) A Member's Capital Account shall be reduced by the Member's share of any expenditures of the Company described in IRC Section 705(a)(2)(B) or which are treated as IRC Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i) (including syndication expenses and losses nondeductible under IRC Sections 267(a)(1) or 707(b)).

(e) If any Economic Interest (or portion thereof) is transferred, the transferee of such Economic Interest (or portion thereof) shall succeed to the transferor's Capital Account attributable to such interest or portion.

(f) The principal amount of a promissory note that is not readily traded on an established securities market and that is contributed to the Company by the holder of the note shall not be included in the Capital Account of any Person until the Company makes a taxable disposition of the note or until (and to the extent) principal payments are made on the note, all in accordance with Regulations Section 1.704-1(b)(2)(iv)(d)(2).

(g) Each Member's Capital Account shall be increased or decreased as necessary to reflect a revaluation of the Company's assets in accordance with the requirements of Regulations Sections 1.704-1(b)(2)(iv)(f) and 1.704-1(b)(2)(iv)(g), including the special rules under Regulations Section 1.701-1(b)(4), as applicable. The provisions of this Agreement respecting the maintenance of Capital Accounts are intended to comply with Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with those Regulations.

**3.6 Withdrawals of Capital Contributions.** A Member shall not be entitled to withdraw any part of the Member's Capital Contribution or to receive any distributions, whether of money or property, from the Company except as provided in this Agreement.

**3.7 Interest on Capital Accounts.** No interest shall be paid on Capital Contributions or on the balance of a Member's Capital Account.

**3.8 No Personal Liability of Members.** A Member shall not be bound by, or be personally liable for, any of the expenses, liabilities, debts or obligations of the Company, whether arising in contract, tort or otherwise, except as otherwise provided in the Act or as expressly set forth in this Agreement.

**3.9 Priority of Distributions and Allocations.** Except as otherwise expressly provided in this Agreement, no Member shall have priority over any other Member with

respect to the return of a Capital Contribution or distributions or allocations of income, gain, losses, deductions, credits or items thereof.

#### ARTICLE IV ALLOCATIONS AND DISTRIBUTIONS

**4.1 Allocation of Profits and Losses.** The Profits and Losses of the Company and all items of Company income, gain, loss, deduction or credit for each fiscal year shall be allocated, for Company book purposes and for tax purposes, among the Members in such proportions as would result, as closely as possible, in the respective Capital Account balance of each Member as of the end of such fiscal year (after adjusting Capital Accounts for all other allocations for such fiscal year) equaling the amount of distributions such Member would receive if an amount equal to the aggregate balance of all such Capital Accounts as of the end of such fiscal year were distributed to the Members in accordance with the provisions of Sections 4.13 and 4.14 below without regard to the provisions of Section 9.2(d) below; provided, however, to the extent an allocation of deduction or loss would cause or increase a deficit balance in any Member's Adjusted Capital Account deficit balance (in excess of any limited dollar amount of such deficit balance that such Member is obligated to restore), such Tax Items shall instead be allocated to all Members with Adjusted Capital Account positive balances (on a pro rata basis based on such respective positive balances) until the Adjusted Capital Accounts of all such Members have zero balances. The Members acknowledge and agree that under this Agreement no Member is obligated to restore a deficit balance in its Capital Account and, accordingly, this Section 4.1 is intended to satisfy the "alternate test for economic effect" of Section 1.704-1(b)(2)(ii)(d) and all other applicable provisions of the Regulations from time to time existing and the Members shall interpret and apply the provisions hereof consistently therewith.

**4.2 Profits and Losses.** As used in this Agreement, "Profits and Losses" means, for each fiscal year or other period specified in this Agreement, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with IRC Section 703(a), including all Tax Items required to be stated separately pursuant to IRC Section 703(a)(1), with the following adjustments:

(a) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits and Losses shall be added to such taxable income or loss.

(b) Any expenditures of the Company described in IRC Section 705(a)(2)(B) or treated as IRC Section 705(a)(2)(B) expenditures pursuant to Regulations

Section 1.704-1(b)(2)(iv)(i) and not otherwise taken into account in computing Profits and Losses shall be subtracted from such taxable income or shall increase such loss.

(c) Gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Fair Market Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Fair Market Value.

(d) In lieu of depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or loss, Book Depreciation shall be taken into account for such fiscal year or other period, computed in accordance with the definition of "Book Depreciation" in Section 4.3(b).

(e) Notwithstanding the foregoing provisions of this Section 4.2, any items of income, gain, loss or deduction that are specially allocated shall not be taken into account in computing Profits and Losses.

**4.3 Miscellaneous Definitions Related to Allocations and Distributions.** The following definitions shall apply with respect to this Article IV:

(a) "Adjusted Capital Account Deficit" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant fiscal year of the Company, after such Member's Capital Account has been adjusted as follows: (1) the Member's Capital Account shall be increased by the amount of such Member's share of Company Minimum Gain and Member Nonrecourse Debt Minimum Gain; and (2) the Member's Capital Account shall be decreased by the amount of the items described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5), and (6). This definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted in any manner that is consistent with that Regulation.

(b) "Book Depreciation" means, with respect to any item of Company property for a given fiscal year, a percentage of depreciation or other cost recovery deduction allowable for federal income tax purposes for such item during that fiscal year equal to the result (expressed as a percentage) obtained by dividing (1) the Fair Market Value of that item at the beginning of the fiscal year (or the acquisition date during the fiscal year), by (2) the adjusted tax basis of the item at the beginning of the fiscal year (or the acquisition date during the fiscal year). If the adjusted tax basis of an item is zero, the Manager may determine Book Depreciation, provided that he does so in a reasonable and consistent manner.

(c) "Company Minimum Gain" is defined in Regulations Section 1.704-2(d)(1).

(d) "Member Nonrecourse Debt" is defined in Regulations Section 1.704-2(b)(4).

(e) "Member Nonrecourse Debt Minimum Gain" for a fiscal year of the Company means the net increase in Minimum Gain attributable to Member Nonrecourse Debt, determined as set forth in Regulations Section 1.704-2(i)(2).

(f) "Member Nonrecourse Deductions" is defined in Regulations Section 1.704-2(i)(2). For any fiscal year of the Company, the amount of Member Nonrecourse Deductions with respect to a Member Nonrecourse Debt equals the net increase during that fiscal year in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt for such fiscal year, reduced (but not below zero) by the amount of any distributions to the Member during such year bearing the economic risk of loss for such Member Nonrecourse Debt if such distributions are both from the proceeds of such Member Nonrecourse Debt and are allocable to an increase in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, all as determined according to the provisions of Regulations Section 1.704-2(i)(2). In determining Member Nonrecourse Deductions, the ordering rules of Regulations Section 1.704-2(j) shall be followed.

(g) "Nonrecourse Deductions" has the meaning set forth in Regulations Section 1.704-2(c). The amount of Nonrecourse Deductions for a Company fiscal year equals the net increase in the amount of Company Minimum Gain during that fiscal year, reduced (but not below zero) by the aggregate amount of any distributions during that fiscal year of proceeds of a Nonrecourse Liability that are allocable to an increase in Company Minimum Gain.

(h) "Nonrecourse Liability" is defined in Regulations Section 1.752-1(a)(2).

**4.4 Special Allocations.** The following special allocations shall be made in the following order:

(a) If there is a net decrease in Company Minimum Gain during a fiscal year, each Member shall be allocated, before any other allocation under this Section 4.4, items of Company income and gain for such fiscal year equal to such Member's share of the net decrease in Company Minimum Gain as determined in accordance with Regulations Section 1.704-2(g)(2).

(b) If there is a net decrease in Member Nonrecourse Debt Minimum Gain during a fiscal year, any Member with a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt as of the beginning of such fiscal year shall be allocated items of Company income and gain for such year (and, if necessary, subsequent years) equal to that Member's share of the net decrease in Member Nonrecourse Debt Minimum Gain determined pursuant to Regulations Section 1.704-2(g)(2). A Member shall not be subject to the foregoing chargeback to the extent permitted under Regulations Section 1.704-2(i)(4).

(c) If any Member unexpectedly receives an adjustment, allocation, or distribution described in Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5), or (6) such Member shall be allocated items of Company income and gain (consisting of a pro rata portion of each item of Company income, including gross income and gain for such fiscal year) in an amount and manner sufficient to eliminate the Adjusted Capital Account Deficit created by such adjustment, allocation, or distribution ("Qualified Income Offset").

(d) To the extent permitted by Sections 1.704-1 and 1.704-2 of the Regulations, any allocation pursuant to this Section 4.4 shall be taken into account in computing subsequent allocations pursuant to Article IV so that the net amount of all allocations to each Member shall, to the extent possible, be equal to the net amount that would have been allocated to each such Member pursuant to the provisions of Article IV as if no allocations under this Section 4.4 had occurred.

**4.5 Member Nonrecourse Deductions.** Member Nonrecourse Deductions for any fiscal year of the Company shall be allocated to the Members in the same proportion as Profits are allocated under Section 4.1 above, provided that any Member Nonrecourse Deductions for any fiscal year or other period shall be allocated to the Member who bears (or is deemed to bear) the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(2).

**4.6 Allocation of Profits and Losses Resulting from a Capital Event.** At the end of each fiscal year of the Company, after all allocations required under Sections 4.4, 4.5 and 4.1 above have been made, all Profits and Losses of the Company resulting from Capital Events shall be allocated to the Members in such proportions as would result, as closely as possible, in each Member's Capital Account balance as of the end of such fiscal year (after adjusting Capital Accounts for all other allocations for such fiscal year) equaling the amount of distributions such Member would receive if an amount equal to the aggregate balance of all such Capital Account balances as of the end of such fiscal year were distributed to the Members in accordance with the provisions of Section 4.14 below.

**4.7 Allocation of Tax Items with Respect to Contributed Property.** Any item of income, gain, loss or deduction with respect to any property (other than cash) that has been contributed by a Member to the capital of the Company or revalued pursuant to the provisions of Section 3.5(g) (and that is required or permitted to be allocated to such Member for income tax purposes under IRC Section 704(c) to take into account the variation between the tax basis of such property and its Fair Market Value at the time of its contribution) shall be allocated solely for income tax purposes in the manner required or permitted under IRC Section 704(c) using the "traditional" method described in Regulations Section 1.704-3(b), except that any other method allowance under applicable Regulations may be used for any contribution of property with respect to which there is agreement between the contributing Member and a Controlling Vote of the other Members.

**4.8 Distribution of Unrealized Appreciation or Depreciation.** Any Company property distributed in kind to Members shall be treated as a distribution to Members to the extent of the then value of the property (taking into account the amount of any liability secured by and related to the property). Any difference between such value of such property and its then Fair Market Value (as adjusted under Section 4.11 below if applicable) shall be deemed to be Profits or Losses realized by the Company immediately prior to the distribution of such property, and such Profits or Losses shall be allocated to the Capital Accounts in the same manner as allocations under Section 4.6 above. Nothing contained in this Agreement is intended to treat or cause such distributions to be treated as sales for value.

**4.9 Allocations Under IRC Section 704(c).** Any item of income, gain, loss or deduction with respect to any property (other than cash) that has been contributed by a Member to the capital of the Company or revalued pursuant to the provisions of Section 3.3(g) (and that is required or permitted to be allocated to such Member for income tax purposes under IRC Section 704(c) to take into account the variation between the tax basis of such property and its Fair Market Value at the time of its contribution) shall be allocated solely for income tax purposes in the manner required or permitted under IRC Section 704(c) using the "traditional" method described in Regulations Section 1.704-3(b), except that any other method allowable under applicable Regulations may be used for any contribution of property with respect to which there is agreement between the contributing Member and the Manager.

**4.10 Allocation Resulting from Transfer of an Economic Interest.** In the case of a Transfer of an Economic Interest during any fiscal year of the Company, the Assigning Member and Assignee shall each be allocated Profits or Losses based on the number of days each held the Economic Interest during such fiscal year. If the Assigning Member and Assignee agree to a different proration and advise the Manager of the agreed proration before the date of the Transfer, Profits or Losses from a Capital Event during that fiscal year shall

be allocated to the holder of the Interest on the day such Capital Event occurred. If an Assignee makes a subsequent Assignment, said Assignee shall be considered an "Assigning Member" with respect to the subsequent Assignee for purposes of the foregoing allocations.

#### **4.11 Adjustments to Company's Fair Market Value.**

(a) The Fair Market Value of all Company property shall be adjusted as of the following times: (1) acquisition of a Membership Interest or increased Membership Interest in the Company by any new or existing Member in exchange for more than a *de minimis* Capital Contribution; (2) the distribution of money or other property (other than a *de minimis* amount) by the Company to a Member as consideration for an Economic Interest in the Company, and (3) the liquidation of the Company within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g); provided, however, that adjustments under clauses (1) and (2) above shall be made only in the event of a revaluation of Company property under Section 3.5(g) in accordance with Regulations Section 1.704-1(b)(2)(iv)(f).

(b) The Fair Market Value of Company property shall be increased or decreased to reflect adjustments to the adjusted tax basis of such property pursuant to IRC Section 732, IRC Section 733, or IRC Section 743, subject to the limitations imposed by IRC Section 755 and Regulations Section 1.704-1(b)(2)(iv)(m).

(c) If the Fair Market Value of an item of property has been determined or adjusted pursuant to Section 1.29 hereof or Paragraph (a) or (b) of this Section 4.11, such Fair Market Value shall be adjusted by the Book Depreciation, if any, taken into account with respect to such property for purposes of computing Profits and Losses.

**4.12 Allocation of Company Tax Items.** It is the intent of the Members that each Member's allocated share of Company Tax Items be determined in accordance with this Agreement to the fullest extent permitted by IRC Sections 704(b) and 704(c). Notwithstanding anything to the contrary contained in this Agreement, if the Company is advised that the allocations provided in this Agreement are unlikely to be respected for federal income tax purposes, as a result of either the adoption of new or amended regulations pursuant to IRC Sections 704(b) and 704(c) or the issuance of authorized interpretations thereto, the Manager is hereby granted the power to amend the allocation provisions of this Agreement (on advice of accountants and legal counsel) to the minimum extent necessary to cause such allocation provisions to be respected for federal income tax purposes.

**4.13 Distribution of Available Cash from Operations.** All Available Cash, other than revenues or proceeds from a Capital Event or the dissolution of the Company, not intended to be reinvested shall be distributed among the Members in accordance with this Section 4.13. The Members intend that Available Cash shall be distributed as soon as

practicable following the Manager's determination that such cash is available for distribution. All Available Cash, other than revenues or proceeds from a Capital Event, shall be distributed among the Members in accordance with their respective Percentage Interests.

**4.14 Distribution of Available Cash from a Capital Event.** All Available Cash resulting from a Capital Event (as distinguished from normal business operations or the dissolution of the Company) not intended to be reinvested shall be distributed to the Members in accordance with this Section 4.14. The Members intend that such distribution shall be made as soon as practicable following the Manager's determination that such cash is available for distribution. All Available Cash resulting from a Capital Event shall be distributed among all Members in accordance with their Percentage Interests.

**4.15 Proceeds from Disposition of Company Property.** If the proceeds from a sale or other disposition of an item of Company property consist of property other than cash, the value of that property shall be determined by the Manager. If such noncash proceeds are subsequently reduced to cash, such cash shall be taken into account by the Manager in determining Available Cash and the Manager shall determine whether such cash resulted from operations or from a Capital Event.

## ARTICLE V MANAGEMENT OFFICES

**5.1 Managers; Successors.** The Business of the Company shall be managed by the Manager in Section 2.8 above or any successor Manager selected as provided in Section 5.3 below. Except as otherwise set forth in this Agreement, all decisions concerning management of the Company's Business shall be made by the Manager.

**5.2 Term of Service.** The Manager shall serve until the earlier of (a) the Manager's dissolution, (b) the Manager's removal by the Members or (c) the expiration of the Manager's term as Manager, if a term has been designated by a Majority of Members. A new Manager shall be appointed by a Majority of Members on the occurrence of any of the foregoing events.

**5.3 Appointment and Removal.** The Manager is hereby appointed by a Majority of Members for an indefinite term expiring only upon the appointment of a successor. A Manager may be removed with or without cause and replaced at any time by action of a Majority of Members.

**5.4 Restrictions on Actions.** The Manager shall have the powers and duties described in Section 5.11 hereof and such other powers and duties as may be prescribed in this Agreement or by the Members. Notwithstanding the foregoing, the Manager shall not take any of the following actions on behalf of the Company unless a Majority of Members consents thereto prior to the taking of such action:

- (a) Any act that would make it impossible to carry on the ordinary Business of the Company;
- (b) Any confession of a judgment against the Company;
- (c) Dissolution of the Company;
- (d) Disposition of a material part of the Company's assets other than in the ordinary course of business;
- (e) Incurring any debt other than in the ordinary course of business;
- (f) A change in the nature of the principal Business of the Company;
- (g) Filing a petition in or arranging among creditors for Bankruptcy of the Company; and,
- (h) Entering into any transaction on behalf of the Company which constitutes a "reorganization" within the meaning of Corporations Code Section 17600.

**5.5 Conduct of Manager Meetings.** The provision of this Section 5.5 shall only apply if more than one Person is then acting as a Manager:

- (a) Actions of the Managers shall be by a majority of Managers by a Vote taken at a meeting or as otherwise provided in this Section 5.5. No regular meetings of the Managers need be held. The President or any two Managers may call a meeting of the Managers by giving Notice of the time and place of the meeting at least forty-eight (48) hours prior to the time of the meeting. The Notice need not specify the purpose of the meeting, nor the location if the meeting is to be held at the principal executive office of the Company.
- (b) A majority of Managers shall constitute a quorum for the transaction of business at any meeting of the Managers.
- (c) The transactions of the Managers at any meeting, however called or noticed, or wherever held, shall be as valid as though transacted at a meeting duly held after

call and notice if a quorum is present and if, either before or after the meeting, each Manager not present signs a written waiver of notice or a consent to the holding of such meeting or an approval of the minutes of such meeting.

(d) Any action required or permitted to be taken by the Managers under this Agreement may be taken without a meeting if a majority of the Managers individually or collectively consents in writing to such action.

(e) Managers may participate in the meeting through the use of a conference telephone or similar communications equipment, provided that all Managers participating in the meeting can hear one another.

(f) The Company shall keep or cause to be kept with the books and records of the Company full and accurate minutes of all meetings, notices and waivers of notices of meetings and all written consents to actions of the Managers.

**5.6 Manager's Other Business Activities.** It is acknowledged that any Manager or Member may have other business interests to which such Manager or Member devotes part of its time. Each Manager shall devote such time to the conduct of the Business of the Company as each Manager, in such Manager's own good faith and discretion, deems necessary.

**5.7 Compensation; Reimbursement for Expenses.** Each Manager and each Member serving as an officer, agent or employee of Company, shall be entitled to compensation for such Person's services, as determined by the Members, and to reimbursement for all expenses reasonably incurred by such Person in the performance of such Person's duties.

**5.8 Officers.** The Company may have a president, who shall be a Member or an Affiliate of a Member (the "President"). The President shall (a) be the chief executive officer of the Company, (b) have general supervision of the Business and affairs of the Company, (c) preside at all meetings of Members and of Managers and (d) have such other powers and duties usually vested in a chief executive officer. A Majority of the Members may provide for additional officers of the Company, may alter the powers and duties of the President and shall establish the powers and duties of all other officers and the compensation of all Company officers.

**5.9 Holding of Company Assets.** The Manager shall cause all assets of the Company, real or personal, to be held in the name of the Company.

**5.10 Accounts for Company Funds.** All funds of the Company shall be deposited in the name of the Company in one or more accounts with one or more recognized financial institutions at locations selected by the Manager. Withdrawal from such accounts shall require only the signature of the Manager or such other Person or Persons as the Manager may designate.

**5.11 Acts of Manager(s) as Conclusive Evidence of Authority.**

(a) Every contract, deed, mortgage, lease and other instrument executed by any Manager shall be conclusive evidence in favor of every Person relying thereon or claiming thereunder that at the time of the delivery thereof (i) the Company was in existence, (ii) neither this Agreement nor the Articles of Organization have been amended in any manner so as to restrict the delegation of authority among the Members or the Manager, and (iii) the execution and delivery of such instrument was duly authorized by the Members and the Manager.

(b) Any Person may always rely on a certificate addressed to such Person and signed by the Manager hereunder which certifies:

(i) As to who the Members or Manager of the Company or as to who are the officers of the Company;

(ii) As to the existence or non-existence of any fact which constitutes a condition precedent to acts by the Members or the Manager or in any other manner germane to the affairs of the Company;

(iii) As to who is authorized to execute and deliver any instrument or document in the name and on behalf of the Company;

(iv) As to the authenticity of any copy of the Articles of Organization, this Agreement, any amendments to either of such documents and any other document relating to the conduct of the affairs of the Company; or

(v) As to any act or failure to act by the Company or as to any other matter whatsoever involving the Company, the Manager or any Member while serving in the capacity as a Member or the Manager.

**5.12 Annual Filing of List of Managers and Designation of Agent for Service of Process.** The Manager, on behalf of the Company shall, within ninety (90) days after filing the original Articles of Organization and annually thereafter on or before the last day of the month in which the anniversary date of the filing of the original Articles of

Organization occurs in each year, file with the Secretary of State an annual statement on a form prescribed by the Secretary of State and enclose any required filing fee. The statement shall contain all of the information required by the Act.

## ARTICLE VI ACCOUNTS AND ACCOUNTING

**6.1 Location of Books and Records; Inspection by Members.** Complete books of account of the Company's Business, in which each Company transaction shall be fully and accurately entered, shall be kept at the Company's principal executive office and at such other locations as the Manager shall determine from time to time and shall be open to inspection and copying during normal business hours on reasonable Notice by any Member or the Member's authorized representatives. The costs of any such inspection and copying shall be borne by the Member.

**6.2 Accounting Method; Fiscal Year.** Financial books and records of the Company shall be kept on a cash basis, which shall be the method of accounting followed by the Company for federal income tax purposes. The financial statements of the Company shall be prepared in accordance with tax accounting principles and shall be appropriate and adequate for the Company's Business and for carrying out the provisions of this Agreement. The fiscal year of the Company shall be January 1 through December 31.

**6.3 Other Company Records.** At all times during the Company's existence (and thereafter, if the Manager deems it necessary, in a location designated by such Manager), the Manager shall keep or cause to be kept the books of account referred to in Section 6.1 above, together with:

(a) A current list of the full name and last known business or residence address of each Member, together with the Capital Contribution and the share in Profits and Losses of each Member;

(b) A current list of the full name and business or residence address of each Manager;

(c) A copy of the Articles of Organization, as amended, together with any powers of attorney pursuant to which the Articles of Organization, or any amendments thereto, were executed;

(d) Copies of the Company's federal, state and local income tax or information returns and reports, if any, for the six (6) most recent taxable years;

- (e) An original executed copy or counterparts of this Agreement, as amended;
- (f) Any powers of attorney under which the Articles of Organization, this Agreement or any amendments to either of such documents, were executed;
- (g) Financial statements of the Company for the six (6) most recent fiscal years; and
- (h) The books and Records of the Company as they relate to the Company's internal affairs for the current and past four (4) fiscal years.

**6.4 Financial Statements.** At the end of each fiscal year the books of the Company shall be closed. Copies of the financial statements, if any are prepared, shall be given to all Members.

**6.5 Annual Information to be Provided to Members.** Within ninety (90) days after the end of each taxable year of the Company the Manager shall send to each of the Members all information regarding the Company that may be necessary for the Members to complete their respective federal and state income tax or information returns, together with a copy of the Company's federal, state, and local income tax or information returns for such year.

**6.6 Partnership Representative.** The Manager shall act as the Partnership Representative of the Company pursuant to IRC Section 6223(a).

**6.7 Duties and Authority of the Partnership Representative.** The Partnership Representative is hereby authorized to do the following:

- (a) Keep the Members informed of administrative and judicial proceedings for the adjustment of Company items at the Company level, as required under the Code and the implementing Regulations;
- (b) Enter into settlement agreements under the Code and applicable Regulations with the Internal Revenue Service or the Secretary of the Treasury (the Secretary) with respect to any tax audit or judicial review. In any such settlement agreement, the Partnership Representative may expressly state that such agreement shall bind the other Members, other than any Member who (within the time prescribed under the Code and Regulations) files a statement with the Manager providing that the Partnership Representative shall not have the authority to enter into a settlement agreement on behalf of such Member;

(c) On receipt of notice of a final Company administrative adjustment, file a petition for readjustment of the Company items with the Tax Court, the District Court of the United States for the district in which the Company's principal place of business is located or the United States Court of Federal Claims, all as contemplated under the Code and applicable Regulations;

(d) File requests for administrative adjustment of Company items on Company tax returns under the Code and applicable Regulations and, to the extent such requests are not allowed in full, file a petition for adjustment with the Tax Court, the District Court of the United States for the district in which the Company's principal place of business is located, or the United States Court of Federal Claims, all as contemplated under the Code; and

(e) Take any other action on behalf of the Members or the Company in connection with any administrative or judicial tax proceeding to the extent permitted by law or regulations, including retaining tax advisers (at the expense of the Company) to whom the Partnership Representative may delegate such rights and duties as deemed necessary and appropriate.

## ARTICLE VII MEETINGS, VOTING AND INDEMNITY OF MEMBERS

### 7.1 Voting.

(a) There shall be only one (1) class of membership and no Member shall have any rights or preferences in addition to or different from those possessed by any other Member except as specifically provided for in Article IV hereof. Members shall have the right and power to appoint, remove, and replace Managers and officers of the Company and the right to Vote on all other matters with respect to which this Agreement or the Act requires or permits such Member action. Each Member shall Vote in proportion to the Member's Percentage Interest as of the governing record date, determined in accordance with Section 7.2 below. If a Member has assigned all or part of the Member's Economic Interest to a Person who has not been admitted as a Member, the Assigning Member shall Vote in proportion to the Percentage Interest that the Assigning Member would have had, if the assignment had not been made.

(b) Without limiting the foregoing, each of the following acts shall require a majority Vote of the Members:

- (i) Dissolution of the Company and any decision to continue the Business of the Company after the occurrence of any event mentioned in Section 9.1 below;
- (ii) The Transfer of a Membership Interest and admission of the Assignee as a Member of the Company;
- (iii) Any amendment of the Articles of Organization or this Agreement;
- (iv) A compromise of the obligation of a Member to make a Capital Contribution under Article III hereof
- (v) Any act that would make it impossible to carry on the ordinary Business of the Company;
- (vi) The confession of any judgment against the Company;
- (vii) Disposition of all or a substantial part of the Company's assets other than in the ordinary course of business;
- (viii) Incurring any debt other than in the ordinary course of business;
- (ix) Any change in the nature of the principal Business of the Company;
- (x) Filing a petition in or arranging among Creditors for Bankruptcy of the Company; or
- (xi) Entering into any transaction on behalf of the Company which constitutes a "reorganization" within the meaning of Corporations Code Section 17600.

**7.2 Record Date.** The record date for determining Members entitled to receive Notice of any meeting, to Vote, to receive any distribution or to exercise any right in respect of any other lawful action, shall be the date set by the Manager or by a Majority of Members; provided, that such record date shall not be more than sixty (60), or less than ten (10) calendar days prior to the date of the meeting and not more than sixty (60) calendar days prior to any other action. In the absence of any action setting a record date, the record date shall be determined in accordance with Corporations Code Section 17104(k).

**7.3 Membership Interest Certificates and Ledger.** The Company may, but shall not be required to, issue certificates evidencing Membership Interests to Members of the

Company ("Membership Interest Certificates"). Once Membership Interest Certificates have been issued, they shall continue to be issued as necessary to reflect current Membership Interests held by Members. Membership Interest Certificates shall be in a form approved by the Manager, shall be manually signed by the Manager and shall bear conspicuous legends evidencing the restrictions on Transfer and the purchase rights of the Company and Members set forth in Article VIII below. All issuances, reissuances, exchanges and other transactions in Membership Interests involving Members shall be recorded in a permanent ledger as part of the books and Records of the Company.

**7.4 Meetings of Members; Notices.** Meetings of Members may be called at any time by the Manager, or by Members representing more than ten percent (10%) of the Voting Interests of all Members for the purpose of addressing any matters on which Members may Vote. If a meeting of Members is called by Members, Notice of the call shall be delivered to the Manager. Meetings may be held at the principal executive office of the Company or at any other location designated by the Manager. Following a call, the Manager shall give Notice of the meeting not less than ten (10) or more than sixty (60) calendar days prior to the date of the meeting to all Members entitled to Vote at the meeting. The Notice shall state the place, date and hour of the meeting and the general nature of business to be transacted. No other business may be transacted at the meeting. The Members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of a sufficient number of Members to leave less than a quorum, if the action taken, other than adjournment, is approved by the requisite Percentage of Members as specified in this Agreement or the Act.

**7.5 Adjourned Meetings.** A meeting of Members at which a quorum is present may be adjourned to another time or place and any business which might have been transacted at the original meeting may be transacted at the adjourned meeting. If a quorum is not present at an original meeting, that meeting may be adjourned by the Vote of a majority of Voting Interests represented either in person or by Proxy. Notice of any adjourned meeting need not be given to Members entitled to Notice if the time and place of the adjourned meeting are announced at the meeting at which the adjournment is taken, unless (a) the adjournment is for more than forty-five (45) days, or (b) after the adjournment, a new record date is fixed for the adjourned meeting. In the situations described in clauses (a) and (b) hereof, Notice of the adjourned meeting shall be given to each Member of record entitled to Vote at the adjourned meeting.

**7.6 Quorum.** A quorum at any meeting of Members shall consist of a Majority of Members, represented in Person or by Proxy. The transactions of any meeting of Members, however called and noticed and wherever held, shall be as valid as though consummated at a meeting duly held after regular call and notice, if (a) a quorum is present at that meeting, either in person or by Proxy and (b) either before or after the meeting, each

of the Persons entitled to Vote, not present in person or by Proxy, signs either a written waiver of notice, a consent to the holding of the meeting or an approval of the minutes of the meeting. Attendance of a Member at a meeting shall constitute waiver of notice, unless that Member objects, at the beginning of the meeting, to the transaction of any business on the basis that the meeting was not lawfully called or convened. Attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be described in the notice of the meeting and not so included, if the objection is expressly made at the meeting.

**7.7 Proxies.** At all meetings of Members, a Member may Vote in person or by Proxy. Such Proxy shall be filed with the Manager before or at the time of the meeting, and may be made by facsimile transmission (followed by overnight delivery of the original) to the Manager at the principal executive office of the Company or such other address as may be given by the Manager to the Member for such purpose.

**7.8 Meetings Held by Conference Telephone.** Members may participate in a meeting through use of conference telephone or similar communications equipment, provided that all Members participating in such meeting can hear one another. Such participation shall be deemed attendance at the meeting.

**7.9 Action by Written Consent.** Any action that may be taken at any meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by Members having not less than the minimum number of Votes that would be necessary to authorize or take that action at a meeting at which all Members entitled to Vote thereon were present and voted. If the Members are requested to consent to a matter without a meeting, each Member shall be given notice of the matter to be voted upon in the manner described in Section 7.4 above. Any action taken without a meeting shall be effective when the required minimum number of Votes consenting thereto have been received. As to any action requiring the consent of less than all of the Members, prompt Notice of the action taken shall be given to all Members who have not consented to the action.

**7.10 Acts by and Indemnity of Members.** No Member acting solely in the capacity of a Member is or shall be deemed to be an agent of the Company, nor can any Member acting solely in the capacity of a Member bind the Company or execute any instrument on behalf of the Company. Accordingly, each Member shall indemnify, defend and save harmless each other Member and the Company from and against any and all loss, cost, expense, liability or damage arising from or out of any claim based upon any action by such Member in contravention of this Section 7.10.

## ARTICLE VIII TRANSFERS OF MEMBERSHIP INTERESTS

**8.1 Withdrawal by Member.** A Member may withdraw from the Company at any time by giving Notice of withdrawal to the Manager at least one hundred eighty (180) calendar days before the effective date of such withdrawal. A withdrawal shall not release a Member from any obligations and liabilities under this Agreement accrued or incurred before the effective date of withdrawal. A withdrawing Member shall divest the Member's entire Membership Interest before the effective date of withdrawal in accordance with and subject to the provisions of this Article VIII.

**8.2 Restrictions on Transfers.** Except as expressly provided in this Agreement, a Member shall not Transfer any part of the Member's Membership Interest in the Company, whether now owned or later acquired, unless a Majority of Members approves the transferee's admission as a Member upon such Transfer. No Member may Encumber or permit or suffer any Encumbrance of all or any part of the Member's Membership Interest in the Company unless such Encumbrance has been approved by a Majority of Members. Such approval may be granted or withheld in the Members' sole discretion. Any Transfer or Encumbrance of a Membership Interest without such approval shall be void. Notwithstanding any other provision of this Agreement to the contrary, a Member who is a natural Person may transfer all or any portion of his or her Membership Interest to any Affiliate or revocable trust created for the benefit of the Member, or any combination between or among the Member, the Member's spouse and the Member's issue, provided that the Member retains a beneficial interest in the trust and all of the Voting Interest included in such Membership Interest. A Transfer of a Member's beneficial interest in such Affiliate or trust, or failure to retain such Voting Interest, shall be deemed a Transfer of a Membership Interest. The distribution by a trustee of a trust on the termination of the trust shall not be deemed a Transfer of a Membership Interest.

**8.3 Third Party Offers.**

(a) If a Member wishes to transfer any or all of the Member's Membership Interest in the Company pursuant to a "Bona Fide Offer", the Member shall give Notice to the Manager at least thirty (30) days in advance of the proposed Transfer, which Notice shall set forth the terms of the Bona Fide Offer and the identity of the offeror. The Company and other Members shall have the option to purchase the Membership Interest proposed to be transferred at the price and on the terms provided in this Agreement. If the price for the Membership Interest is other than cash, the Fair Market Value in dollars of the price shall be as established in good faith by the Company. For purposes of this Agreement, "Bona Fide Offer" means an offer in writing setting forth all relevant terms and conditions of purchase from an offeror who is ready, willing, and able to consummate the purchase and who is not

an Affiliate of the selling Member. For thirty (30) days after giving Notice of a Bona Fide Offer, the Company shall have the right to purchase the Membership Interest offered, on the terms stated in the Notice, for the lesser of (i) the price stated in the Notice (or the price plus the dollar value of noncash consideration, as the case may be) and (ii) the purchase price determined under Section 8.7 below.

(b) If the Company does not exercise the right to purchase all of the Membership Interest, then the right to purchase the portion of the Membership Interest that the Company does not elect to purchase shall be given to the other Members for an additional thirty (30) day period, beginning on the day that the Company's right to purchase expires. Each of the other Members shall have the right to purchase, on the same terms as Company, that part of the Membership Interest of the offering Member which is in the proportion that the Member's Percentage Interest bears to the total Percentage Interests of all Members who choose to participate in the purchase; provided, however, that the Company and the participating Members may not, in the aggregate, purchase less than the entire Membership Interest to be sold by the offering Member.

(c) If the Company and other Members do not exercise their rights to purchase all of the offered Membership Interest, the offering Member may, within ninety (90) days from the date the Notice is given and on the terms and conditions stated in the Notice, sell or exchange that Membership Interest to the offeror named in the Notice. Unless the requirements of Section 8.2 are met, the offeror under this Section shall become an Assignee and shall be entitled to receive only the share of Profits or other compensation by way of income and the return of Capital Contribution to which the assigning Member would have been entitled.

**8.4 Transfer on Occurrence of a Triggering Event.** On the happening of any of the following events ("Triggering Events") with respect to a Member, the Company and other Members shall have the option to purchase such Member's Membership Interest at the price and on the terms provided in Section 8.7 of this Agreement:

(a) The (i) Bankruptcy or withdrawal of a Member, (ii) winding up and dissolution of a Member which is a corporation, limited liability company or a partnership, or (iii) merger or other corporate reorganization of a corporate Member as a result of which the corporate Member does not survive as an entity; provided that the remaining Members have elected to continue the Business of the Company as provided in Section 9.1(a) below.

(b) The failure of a Member to make the Member's Capital Contribution pursuant to the provisions of Article III of this Agreement.

(c) The occurrence of any other event that is, or that would cause, a Transfer in contravention of this Agreement.

Each Member agrees to promptly give Notice of a Triggering Event to the Manager.

**8.5 Other Events Requiring a Transfer.** Notwithstanding any other provisions of this Agreement:

(a) If, in connection with divorce or dissolution of the marriage of a Member, any court issues a decree or order that transfers, confirms or awards a Membership Interest, or any portion thereof, to that Member's spouse (an "Award") then, notwithstanding that such Award would constitute an unpermitted Transfer under this Agreement, such Member shall have the right to purchase from his or her former spouse the Membership Interest, or portion thereof, that was so transferred, and such former spouse shall sell the Membership Interest or portion thereof to that Member at the price set forth in Section 8.7 below.

(b) If the Member fails to consummate the purchase within one hundred eighty (180) days after the Award (an "Expiration Date"), the Company and other Members shall have the option to purchase from the former spouse the Membership Interest or portion thereof pursuant to Section 8.6 below; provided that the option period shall commence on the later of (i) the day following the Expiration Date, or (ii) the date of actual Notice of the Award.

(c) If, by reason of the death of a spouse of a Member, any portion of a Membership Interest is transferred to a Transferee other than (i) that Member or (ii) a trust created for the benefit of that Member (or for the benefit of that Member and any combination of the Member and the Member's issue) in which the Member is the sole Trustee and the Member, as Trustee or individually possesses all of the Voting Interest included in that Membership Interest, then the Member shall have the right to purchase the Membership Interest or portion thereof from the estate or other successor of his or her deceased spouse or Transferee of such deceased spouse, and the estate, successor or Transferee shall sell the Membership Interest or portion thereof at the price set forth in Section 8.7 of this Agreement. If the Member fails to consummate the purchase within one hundred eighty (180) days after the date of death (the "Expiration Date"), the Company and the other Members shall have the option to purchase from the estate or other successor of the deceased spouse the Membership Interest or portion thereof pursuant to Section 8.6 below; provided that the option period shall commence on the later of (i) the day following the Expiration Date, or (ii) the date of actual Notice of the death.

**8.6 Company's Option to Purchase.** On the receipt by the Manager and the other Members of a Notice contemplated by Sections 8.1, 8.4 and 8.5, and on receipt of actual Notice of any Triggering Events as determined in good faith by the Manager, the Company shall have the option, for a period ending thirty (30) calendar days following the determination of the purchase price as provided in Section 8.7 below, to purchase the Membership Interest in the Company to which the option relates, at the price and on the terms set forth in said Section 8.7, and the other Members, pro rata in accordance with their prior Membership Interests in the Company, shall then have the option, for a period of thirty (30) days thereafter, to purchase the Membership Interests in the Company not purchased by the Company on the same terms and conditions as apply to the Company. If all other Members do not elect to purchase the entire remaining Membership Interest in the Company, then the Members electing to purchase shall have the right, pro rata in accordance with their prior Membership Interests in the Company, to purchase the additional Membership Interest in the Company available for purchase. The transferee of the Membership Interest in the Company that is not purchased shall hold such Membership Interest in the Company subject to all of the provisions of this Agreement.

**8.7 Purchase Price for Optioned Membership Interests.** The purchase price for the Membership Interest that is the subject of an option under Sections 8.3 and 8.6 shall be the "Market Value" of the interest, which shall be its fair market value determined by taking into account appropriate discounts for lack of control and marketability, as applicable. Each of the selling and purchasing parties shall use his, her or its best efforts to mutually agree upon the Market Value. If the parties are unable to so agree within thirty (30) days of the date on which the option is first exercisable (the Option Date), the selling party shall appoint, within forty (40) days of the Option Date, an appraiser, and the purchasing party shall appoint within forty (40) days of the Option Date, an appraiser. The two appraisers shall within a period of five (5) additional days, agree upon and appoint an additional appraiser. The three appraisers shall, within sixty (60) days after the appointment of the third appraiser, determine the Market Value of the Membership Interest in writing and submit their report to all the parties. The Market Value shall be determined by disregarding the appraiser's valuation that diverges the greatest from each of the other two appraisers' valuations, and the arithmetic mean of the remaining two appraisers' valuations shall be the Market Value. Each purchasing party shall pay for the services of the appraiser selected by it, plus one-half of the fee charged by the third appraiser, and one-half of all other costs relating to the determination of Market Value. The option purchase price as so determined shall be payable ten percent (10%) in cash at the closing and the balance in one hundred twenty (120) equal monthly installments of principal and accrued interest at the long term Applicable Federal Rate in effect at the closing date of the purchase, represented by an unsecured promissory note. Principal may be prepaid from time to time.

**8.8 Voting Prohibited by Transferring Member.** Neither the Member whose Membership Interest is subject to purchase under this Article, nor such Member's Affiliate, shall participate in any Vote or discussion of any matter pertaining to the disposition of such Member's Membership Interest in the Company under this Agreement.

**8.9 Admission of Transferee as a Member.** Except as expressly permitted under Section 8.2 above, a prospective transferee (other than an existing Member or the spouse or issue of an existing Member) of a Membership Interest may be admitted as a Member with respect to such Membership Interest ("Substituted Member") only (a) on the approval by the Majority of Members and (b) on such prospective transferee executing a counterpart of this Agreement as a party hereto. Transferees who are existing Members, or spouses or issue of existing Members, shall automatically be deemed Substitute Members without the necessity of compliance with this section. Any prospective transferee of a Membership Interest shall be deemed an Assignee and, therefore, the owner of only an Economic Interest until such prospective transferee has been admitted as a Substituted Member. Except as otherwise permitted in the Act, prior to being admitted as a Substitute Member any such Assignee shall be entitled only to receive allocations and distributions under this Agreement with respect to such Membership Interest and shall have no right to Vote or exercise any rights of a Member. Until the Assignee becomes a Substituted Member, the Assigning Member will continue to be a Member and to have the power to exercise any rights and powers of a Member under this Agreement, including the right to Vote in proportion to the Percentage Interest that the Assigning Member would have had if the assignment had not been made.

**8.10 No Release of Assigning Member.** Any Person admitted to the Company as a Substituted Member shall be subject to all the provisions of this Agreement that apply to the Member from whom the Membership Interest was assigned; provided, however, that the assigning Member shall not be released from liabilities as a Member solely as a result of the assignment, with respect to both obligations to the Company and to third parties that were incurred prior to the assignment.

## ARTICLE IX DISSOLUTION AND WINDING UP

**9.1 Events Triggering Dissolution.** The Company shall be dissolved upon the first to occur of the following events:

(a) The death (of an individual Member), incapacity, Bankruptcy, withdrawal or dissolution of a Member; provided, however, that the remaining Members may by the Vote of a Majority of Members within ninety (90) days of the happening of that event, Vote to continue the Business of the Company, in which case the Company shall not

dissolve. If the remaining Members fail to so Vote, the remaining Members shall wind up the Company. For purposes of this Paragraph 9.1(a), in determining a Majority of Members, the Percentage Interest of the Member who has died, become incapacitated, withdrawn, become bankrupt or dissolved shall not be taken into account.

(b) Expiration of the term of existence of the Company; provided, however, that the remaining Members may, by the Vote of a Majority of Members prior to such expiration date, Vote to continue the business of the Company to a newly agreed upon expiration date, in which case the Company shall not dissolve until such date.

(c) Written agreement of all Members to dissolve the Company.

(d) Sale or other disposition of substantially all of the Company's assets.

(e) Entry of a decree of judicial dissolution under Corporations Code Section 17351.

**9.2 Winding Up Company Business on Dissolution.** On dissolution of the Company, the Company shall engage in no further business other than that necessary to wind up the Business and affairs of the Company. The Managers who have not wrongfully dissolved the Company or, if there is no such Manager, the Members, shall wind up the affairs of the Company. The Persons winding up the affairs of the Company shall give Notice of the commencement of winding up by mail to all known creditors and claimants against the Company whose addresses appear in the records of the Company. After paying or adequately providing for the payment of all known debts of the Company (except debts owing to Members), the remaining assets of the Company shall be distributed or applied in the following order:

(a) To pay the expenses of liquidation.

(b) To the establishment of reasonable reserves by the Manager for contingent liabilities or obligations of the Company. Upon the Manager's determination that such reserves are no longer necessary, said reserves shall be distributed as provided in this Section 9.2.

(c) To repay outstanding loans to Members. If there are insufficient funds to pay such loans in full, each Member shall be repaid in the ratio that the Member's loan, together with interest accrued and unpaid thereon, bears to the total of all such loans from Members, including all interest accrued and unpaid thereon. Such repayment shall first be credited to accrued and unpaid interest due and the remainder shall be credited to principal.

(d) To and among the Members with Positive Capital Account Balances as provided in Section 4.14 above; provided, however, that to the extent required by Section 1.704-1(b)(2)(ii)(b)(2) of the Regulations, upon a liquidation of the Company (or any Member's interest in the Company) liquidating distributions shall be made to the Members to the extent of and in proportion to their respective positive Capital Account balances (computed after taking into account all allocations and adjustments hereunder for the Company's taxable year in which such liquidation occurs). The Members acknowledge and agree that this Section 9.2(d) is intended to ensure that all allocations under this Agreement shall have "economic effect to the extent required pursuant to Section 1.704-1(b)(2)(ii)(b)(2) and all other applicable provisions of the Regulations from time to time existing and the Members shall interpret and apply the provisions hereof consistently therewith.

**9.3 Limitation on Recourse of Members.** Each Member shall look solely to the assets of the Company for the return of the Member's investment, and if the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the investment of each Member, such Member shall have no recourse against any other Member for indemnification, contribution or reimbursement, except as specifically provided in this Agreement. Except as otherwise specifically provided in this Agreement, if at all, no Member shall be required to make any contribution to the Company by reason of any negative balance in the Member's Capital Account, nor shall any negative balance in a Member's Capital Account create any liability on the part of the Member to any Person.

**ARTICLE X**  
**[Intentionally Omitted]**

**ARTICLE XI**  
**ARBITRATION**

Any action to enforce or interpret this Agreement or to resolve disputes between the Members or by or against any Member shall be settled by arbitration in accordance with the rules of the American Arbitration Association. Arbitration shall be the exclusive dispute resolution process in the State of California, but arbitration shall be a nonexclusive process elsewhere. Any party may commence arbitration by sending a written demand for arbitration to the other parties. Such demand shall set forth the nature of the matter to be resolved by arbitration. Arbitration shall be conducted at Los Angeles, California. The substantive law of the State of California shall be applied by the arbitrator to the resolution of the dispute. The parties shall share equally all initial costs of arbitration. The prevailing party shall be entitled to reimbursement of attorney fees, costs, and expenses incurred in connection with

the arbitration. All decisions of the arbitrator shall be final, binding, and conclusive on all parties. Judgment may be entered upon any such decision in accordance with applicable law in any court having jurisdiction thereof.

## ARTICLE XII ATTORNEY-IN-FACT AND AGENT

Each Member, by execution of this Agreement, irrevocably constitutes and appoints each Manager (and any of them acting alone) as such Member's true and lawful attorney-in-fact and agent, with full power and authority in such Member's name, place and stead to execute, acknowledge and deliver, and to file or record in any appropriate public office: (a) any certificate or other instrument that may be necessary, desirable or appropriate to qualify the Company as a limited liability company or to transact business as such in any jurisdiction in which the Company conducts business; (b) any certificate or amendment to the Company's Articles of Organization or to any certificate or other instrument that may be necessary, desirable, or appropriate to reflect an amendment approved by the Members in accordance with the provisions of this Agreement; (c) any certificates or instruments that may be necessary, desirable or appropriate to reflect the dissolution and winding up of the Company; and (d) any certificates necessary to comply with the provisions of this Agreement. This power of attorney is deemed to be coupled with an interest and will survive the Transfer of the Member's Economic Interest. Notwithstanding the existence of this power of attorney, each Member agrees to join in the execution, acknowledgment and delivery of the instruments referred to above if requested to do so by a Manager. This power of attorney is a limited power of attorney and does not authorize any Manager to act on behalf of a Member except as described in this Article XII.

## ARTICLE XIII INVESTMENT REPRESENTATIONS

Each Member hereby represents, warrants to and agrees with the other Members and the Company as follows:

**13.1 Investment Intent.** The Member is acquiring its Membership Interest for investment purposes only, for its own account and not with a view to or for sale in connection with any distribution of all or any part of the Membership Interest, and no other person has or will have any direct or indirect beneficial interest in or right to such Membership Interest.

**13.2 Residency.** The Member is a resident of the State of California.

**13.3 Economic Risk.** The Member is financially able to bear the economic risk of an investment in the Membership Interest, including the total loss thereof.

**13.4 No Registration of Membership Interest.** The Member acknowledges that the Membership Interest has not been registered under the Securities Act of 1933, as amended (the "Securities Acts"), or qualified under the California corporation Securities Law of 1968, as amended, or any other applicable blue sky laws in reliance, in part, on the Member's representations, warranties and agreements contained herein.

**13.5 Membership Interest in Restricted Security.** The Member understands that the Membership Interest is a "restricted security" under the Securities Acts in that the Membership Interest is being acquired from the Company in a transaction not involving a public offering and that the Membership Interest may be resold without registration under the Securities Acts only in certain limited circumstances and that otherwise the Membership Interest must be held throughout the term of this Agreement.

**13.6 Consultation with Legal Counsel.** The Member has been advised to consult and has, to the extent such Member deemed necessary, consulted with the Member's own legal counsel regarding any legal matters concerning investment and membership in the Company, and the tax consequences of participating in the Company.

#### ARTICLE XIV GENERAL PROVISIONS

**14.1 Entire Agreement.** This Agreement constitutes the whole and entire agreement of the parties with respect to the subject matter of this Agreement, and it shall not be modified or amended in any respect except by a written instrument executed by all parties. This Agreement replaces and supersedes all prior written and oral agreements by and among the Members and Managers or any of them.

**14.2 Counterparts; Facsimile Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by facsimile and delivery of a facsimile signature shall constitute an effective execution and delivery hereof.

**14.3 Governing Law.** This Agreement shall be construed and enforced in accordance with the internal laws of the State of California, and not the law of conflicts. This Agreement is subject to and governed by the mandatory provisions of the Act and the Articles of Organization filed with the Secretary of State, as both may be amended from time

to time. In the event of a direct conflict between the provisions of the Agreement and the mandatory provisions of the Act or the provisions of the Articles of Organization, such provisions of the Act or the Articles of Organization, as the case may be, will be controlling.

**14.4 Severability.** If any provision of this Agreement is determined by any court of competent jurisdiction or arbitrator to be invalid, illegal, or unenforceable to any extent, that provision shall, if possible, be construed as though more narrowly drawn, if a narrower construction would avoid such invalidity, illegality, or unenforceability or, if that is not possible, such provision shall, to the extent of such invalidity, illegality, or unenforceability, be severed, and the remaining provisions of this Agreement shall remain in effect.

**14.5 Binding Effect.** This Agreement shall be binding on and inure to the benefit of the parties and their heirs, personal representatives and permitted successors and assigns.

**14.6 Number and Gender.** Whenever used in this Agreement, the singular shall include the plural and the plural shall include the singular, and the neuter gender shall include the male and female as well as a trust, firm, company, or corporation, all as the context and meaning of this Agreement may require.

**14.7 Execution of Additional Documents.** The parties to this Agreement shall promptly execute and deliver any and all additional documents, instruments, notices and other assurances, and shall do any and all other acts and things, reasonably necessary in connection with the performance of their respective obligations under this Agreement and to carry out the intent of the parties.

**14.8 Business Activities of Members.** Except as provided in this Agreement, no provision of this Agreement shall be construed to limit in any manner the Members in carrying on their respective businesses or activities.

**14.9 No Agency.** Except as provided in this Agreement, no provision of this Agreement shall be construed to constitute a Member, in the Member's capacity as such, the agent of any other Member.

**14.10 Authorized Capacity.** Each Member represents and warrants to the other Members that the Member has the capacity and authority to enter into this Agreement.

**14.11 Headings.** The article, section, and paragraph titles and headings contained in this Agreement are inserted as matter of convenience and for ease of reference only and shall be disregarded for all other purposes, including the construction or enforcement of this Agreement or any of its provisions.

**14.12 Amendment.** This Agreement may be altered, amended, or repealed only by a writing signed by all of the Members.

**14.13 Time of the Essence.** Time is of the essence of every provision of this Agreement that specifies a time for performance.

**14.14 Exclusive Benefit.** This Agreement is made solely for the benefit of the parties to this Agreement and their respective permitted successors and assigns, and no other Person (including any creditor of the Company) shall have or acquire any right or benefit by virtue of this Agreement.

**14.15 Waiver of Partition.** No Member has any interest in specific property of the Company. Without limiting the foregoing, each Member irrevocably waives during the term of the Company any right that such Member may have to maintain any action for partition with respect to the property of the Company.

**14.16 Exhibits.** All exhibits and schedules attached hereto and referred to herein are hereby incorporated into this Agreement as though fully set forth at length.

IN WITNESS WHEREOF, the parties have executed or caused to be executed this Agreement as of the day and year first above written.

MEMBERS:

GG2, Inc.

By: Phyllis Gorby Kelley  
Phyllis Gorby Kelley, President

Phyllis Gorby Kelley  
Phyllis Gorby Kelley, Trustee of  
Phyllis Gorby Kelley Non-Exempt  
Irrevocable Trust, dated September 9,  
2013

Gorby Fountains, L.P.

By: GG2, Inc., General Partner

Edward Gorelick  
Edward Gorelick, Trustee of Laurie Gorby  
Shapira Non-Exempt Irrevocable Trust,  
dated May 11, 2015

By: Phyllis Gorby Kelley  
Phyllis Gorby Kelley, President

**14.12 Amendment.** This Agreement may be altered, amended, or repealed only by a writing signed by all of the Members.

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MEMBERS:

GG2, Inc.

By: \_\_\_\_\_  
Phyllis Gorby Kelley, President

Gorby Fountains, L.P.

By: GG2, Inc., General Partner

By: \_\_\_\_\_  
Phyllis Gorby Kelley, President

\_\_\_\_\_  
Phyllis Gorby Kelley, Trustee of  
Phyllis Gorby Kelley Non-Exempt  
Irrevocable Trust, dated September 9,  
2013

  
\_\_\_\_\_  
Edward Gorelick, Trustee of Laurie Gorby  
Shapira Non-Exempt Irrevocable Trust,  
dated May 11, 2015

**EXHIBIT "A"**

**FORM OF ARTICLES OF ORGANIZATION**

[SEE FORM ATTACHED HERETO]

Exhibit "A"



**California Secretary of State  
Electronic Certified Copy**

I, SHIRLEY N. WEBER, Ph.D., Secretary of State of the State of California, hereby certify that the attached transcript of 1 page is a full, true and correct copy of the original record in the custody of the California Secretary of State's office.



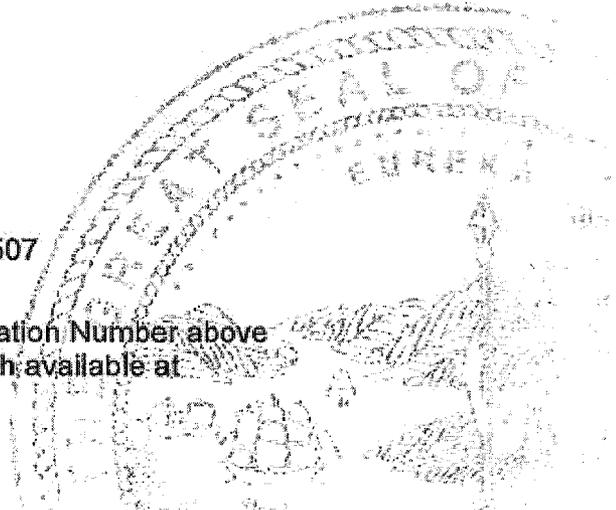
**IN WITNESS WHEREOF**, I execute  
this certificate and affix the Great  
Seal of the State of California on  
this day of December 01, 2021

A handwritten signature in black ink, appearing to read "S. N. Weber".

**SHIRLEY N. WEBER, Ph.D.**  
Secretary of State

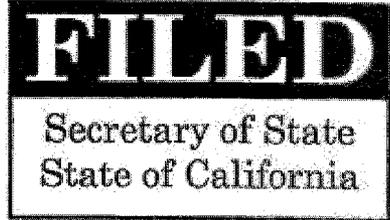
Verification Number: H8X4ZA  
Entity (File) Number: 202133510507

To verify the issuance of this Certificate, use the Verification Number above with the Secretary of State Electronic Verification Search available at [bizfile.sos.ca.gov](http://bizfile.sos.ca.gov)





California Secretary of State  
Electronic Filing



LLC Registration – Articles of Organization

Entity Name: Gorby Fountains Properties, LLC

Entity (File) Number: 202133510507

File Date: 12/01/2021

Entity Type: Domestic LLC

Jurisdiction: California

Detailed Filing Information

- 1. Entity Name: Gorby Fountains Properties, LLC
  - 2. Business Addresses:
    - a. Initial Street Address of Designated Office in California: 21550 Oxnard Street, Suite 1000  
Woodland Hills, California 91367  
United States
    - b. Initial Mailing Address: 21550 Oxnard Street, Suite 1000  
Woodland Hills, California 91367  
United States
  - 3. Agent for Service of Process: Edward Gorelick  
21550 Oxnard Street, Suite 1000  
Woodland Hills California 91367  
United States
  - 4. Management Structure: One Manager
  - 5. Purpose Statement: The purpose of the limited liability company is to engage in any lawful act or activity for which a limited liability company may be organized under the California Revised Uniform Limited Liability Company Act.
- Future File Date Of: December 01, 2021
- Electronic Signature:
- The organizer affirms the information contained herein is true and correct.
- Organizer: Michael C. Agran

Certificate Verification Number: H8X4ZA  
Use bizfile.sos.ca.gov to verify the certified copy.

**EXHIBIT "B"****MEMBER INFORMATION**

<b>Member Name, Address:</b>	<b><u>Capital Contribution</u></b>	<b><u>Percentage Interest</u></b>
GG2, Inc. 10960 Wilshire Blvd., Suite 700 Los Angeles, CA 90024	*	1.20%
Gorby Fountains, L.P. 10960 Wilshire Blvd., Suite 700 Los Angeles, CA 90024	*	88.30%
Phyllis Gorby Kelley Non-Exempt Irrevocable Trust, dated September 9, 2013 10960 Wilshire Blvd., Suite 700 Los Angeles, CA 90024	*	7.80%
Laurie Gorby Shapira Non-Exempt Irrevocable Trust, dated May 11, 2015 10960 Wilshire Blvd., Suite 700 Los Angeles, CA 90024	*	<u>2.70%</u>
	<b>TOTAL:</b>	<b><u>100%</u></b>

\*Carryover basis of partnership interest  
in Fountains Mobile Home Park, L.P.

# Property Record Card



**Parcel:** 19-21-31-514-0000-0020  
**Property Address:** 7123 RED BUG LAKE RD OVIEDO, FL 32765  
**Owners:** GORBY FOUNTAINS PROPERTIES LLC  
 2026 Market Value \$2,345,738 Assessed Value \$2,345,738 Taxable Value \$2,345,738  
 2025 Tax Bill \$32,144.69  
 Restaurant property w/1st Building size of 6,328 SF and a lot size of 1.79 Acres

## Parcel Location



## Site View



## Parcel Information

Parcel	19-21-31-514-0000-0020
Property Address	7123 RED BUG LAKE RD OVIEDO, FL 32765
Mailing Address	C/O NORTH AMERICAN COMMERCIAL 9079 W POST RD STE 120 LAS VEGAS, NV 89148-2439
Subdivision	GOLDENEYE POINT
Tax District	01:County Tax District
DOR Use Code	21:Restaurant
Exemptions	None
AG Classification	No

## Value Summary

	2026 Working Values	2025 Certified Values
Valuation Method	Cost/Market	Cost/Market
Number of Buildings	1	1
Depreciated Building Value	\$789,694	\$799,237
Depreciated Other Features	\$167,608	\$162,257
Land Value (Market)	\$1,388,436	\$1,388,436
Land Value Agriculture	\$0	\$0
Just/Market Value	\$2,345,738	\$2,349,930
Portability Adjustment	\$0	\$0
Save Our Homes Adjustment/Maximum Portability	\$0	\$0
Non-Hx 10% Cap (AMD 1)	\$0	\$0
P&G Adjustment	\$0	\$0
Assessed Value	\$2,345,738	\$2,349,930

## 2025 Certified Tax Summary

Tax Amount w/o Exemptions	\$32,144.69
Tax Bill Amount	\$32,144.69
Tax Savings with Exemptions	\$0.00

## Owner(s)

Name - Ownership Type

Note: Does NOT INCLUDE Non Ad Valorem Assessments

**Legal Description**

LOT 2  
 GOLDENEYE POINT  
 PB 75 PGS 79 & 80

**Taxes**

Taxing Authority	Assessed	Exempt Amount	Taxable
COUNTY GENERAL FUND	\$2,345,738	\$0	\$2,345,738
Schools	\$2,345,738	\$0	\$2,345,738
FIRE	\$2,345,738	\$0	\$2,345,738
ROAD DISTRICT	\$2,345,738	\$0	\$2,345,738
SJWM(Saint Johns Water Management)	\$2,345,738	\$0	\$2,345,738

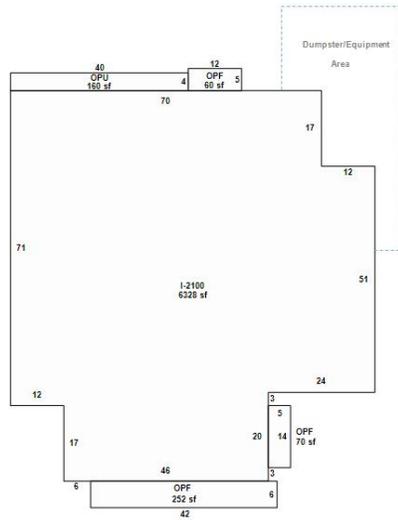
**Sales**

Deed Type	Date	Sale Amount	Book / Page	Sale Type	Qualified?
QUIT CLAIM DEED	12/27/2021	\$100	10168/0001	Improved	No
GUARDIAN DEED	7/1/2018	\$2,150,000	09181/0019	Improved	No

**Land**

Units	Rate	Assessed	Market
78,002 SF	\$17.80/SF	\$1,388,436	\$1,388,436

Building Information	
#	1
Use	WOOD BEAM/COLUMN
Year Built*	2007
Bed	
Bath	
Fixtures	0
Base Area (ft <sup>2</sup> )	6328
Total Area (ft <sup>2</sup> )	
Constuction	WOOD SIDING WITH WOOD OR METAL STUDS
Replacement Cost	\$1,005,979
Assessed	\$789,694



Building 1

\* Year Built = Actual / Effective

Appendages	
Description	Area (ft <sup>2</sup> )
OPEN PORCH FINISHED	60
OPEN PORCH FINISHED	70
OPEN PORCH FINISHED	252
OPEN PORCH UNFINISHED	160

Permits				
Permit #	Description	Value	CO Date	Permit Date
11569	7115 RED BUG LAKE RD: SIGN (POLE,WALL,FACIA)-SIGN [GOLDENEYE POINT]	\$0		8/15/2025
07808	FIRE ALARM SYSTEM INSTALLATION	\$1,000		7/6/2016

Extra Features					
Description	Year Built	Units	Cost	Assessed	
WALKS CONC COMM	2007	3380	\$18,387	\$11,032	
COMMERCIAL CONCRETE DR 4 IN	2007	1624	\$8,835	\$5,301	
COMMERCIAL ASPHALT DR 3 IN	2007	48468	\$162,368	\$97,421	
6' CHAIN LINK FENCE - LIN FT	2007	87	\$1,348	\$809	
8' CHAIN LINK FENCE - LIN FT	2007	83	\$1,682	\$1,009	
POLE LIGHT 2 ARM	2007	2	\$7,210	\$7,210	
POLE LIGHT 3 ARM	2007	2	\$11,330	\$11,330	
POLE LIGHT 4 ARM	2007	4	\$30,900	\$30,900	
IRON GATE - Lin Ft	2007	150	\$4,326	\$2,596	

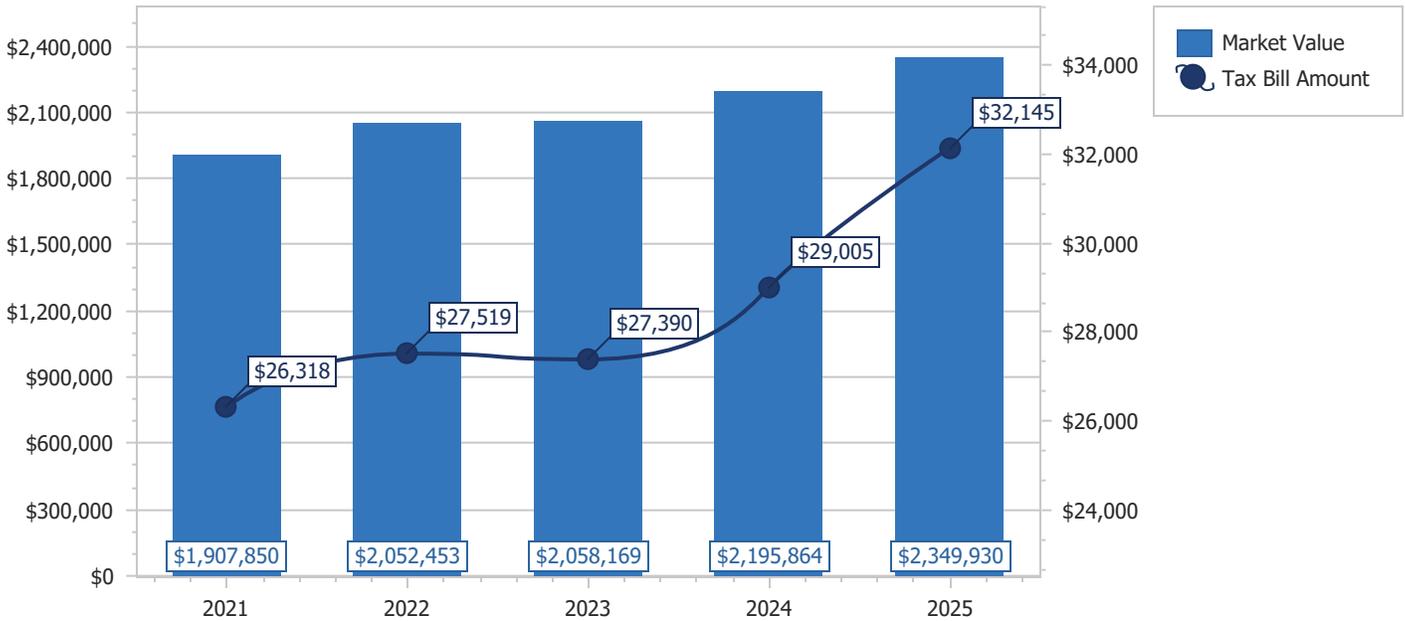
Zoning	
Zoning	PD
Description	Planned Development
Future Land Use	PD
Description	Planned Development

School Districts	
Elementary	Rainbow
Middle	Tuskawilla
High	Lake Howell

Political Representation	
Commissioner	District 1 - Bob Dallari
US Congress	District 7 - Cory Mills
State House	District 38 - David Smith
State Senate	District 10 - Jason Brodeur
Voting Precinct	Precinct 69

Utilities	
Fire Station #	Station: 27 Zone: 277
Power Company	DUKE
Phone (Analog)	AT&T
Water	Seminole County Utilities
Sewage	Seminole County Utilities
Garbage Pickup	
Recycle	
Yard Waste	
Hauler #	

### Property Value History



Copyright 2026 © Seminole County Property Appraiser

**Seminole County Government  
Development Services Department  
Planning and Development Division  
Credit Card Payment Receipt**

If you have questions about your application or payment, please email us [eplandesk@seminolecountyfl.gov](mailto:eplandesk@seminolecountyfl.gov) or call us at: (407) 665-7371.

**Receipt Details**

**Date:** 1/12/2026 2:39:43 PM  
**Project:** 26-06000004  
**Credit Card Number:** 42\*\*\*\*\*0695  
**Authorization Number:** 00604G  
**Transaction Number:** 120126O3B-61345647-4175-4E50-BEA6-E99DCB2D70C3  
**Total Fees Paid:** 3837.09

**Fees Paid**

<b>Description</b>	<b>Amount</b>
CC CONVENIENCE FEE -- PZ	66.09
SITE PLAN	3771.00
Total Amount	3837.09