

FAX AUDIT NO.: H20000221441 3

# EXHIBIT "B"

## ARTICLES OF AMENDMENT AND RESTATEMENT OF ARTICLES OF INCORPORATION OF SPANISH WELLS COMMUNITY ASSOCIATION, INC.

Document Number: N94000004941

Pursuant to the provisions of Section 617.1006, Florida Statutes, this Florida Not For Profit Corporation adopts the following Articles of Amendment to its Articles of Incorporation:

**FIRST:** The name of the corporation is Spanish Wells Community Association, Inc.

**SECOND:** The attached Third Amended and Restated Articles of Incorporation was adopted by the membership to amend and restate the Second Amended and Restated Article of Incorporation in its entirety.

**THIRD:** The attached Third Amended and Restated Articles of Incorporation was adopted by the required vote of the members on the 8<sup>th</sup> day of July, 2020.

**FOURTH:** The number of votes cast were sufficient for approval.

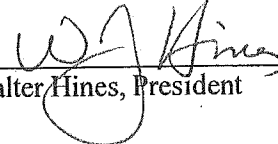
The undersigned President of this Corporation has executed these Articles of Amendment on the 10<sup>th</sup> day of July 2020.

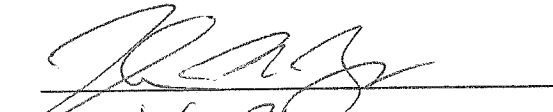
WITNESSES:

SPANISH WELLS COMMUNITY ASSOCIATION, INC.



Print: R. David Smith

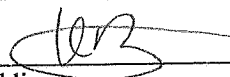
BY:   
Walter Hines, President



Print: John Lizzo (Assoc. MGR.)

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me by means of  physical presence OR  online notarization this 10 day of July, 2020 by Walter Hines, as President of Spanish Wells Community Association, Inc., a Florida not for profit corporation, on behalf of the corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.

  
\_\_\_\_\_  
Notary Public

Kristine Beaver  
Printed Name

Commission Expires: 9/20/22



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**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE ARTICLES OF INCORPORATION.  
FOR PRESENT TEXT SEE EXISTING ARTICLES OF INCORPORATION.**

**THIRD AMENDED AND RESTATED ARTICLES OF INCORPORATION  
OF SPANISH WELLS COMMUNITY ASSOCIATION, INC.**

Spanish Wells Community Association, Inc., a Florida corporation not-for-profit, was originally incorporated under the same name on October 7, 1994. The Second Articles of Incorporation of Spanish Wells have been previously amended and are hereby amended and restated in their entirety.

**ARTICLE I**

**NAME & ADDRESS.** The name of the Corporation is Spanish Wells Community Association, Inc. (hereinafter the "Association"). The principal address of the Association is currently 9240 Bonita Beach Road, Suite 3318, Bonita Springs, FL 34135 and may be changed from time to time, at the discretion of the Board of Directors, without the necessity of amending these Articles of Incorporation.

**ARTICLE II**

**PURPOSE AND POWERS.** The purpose for which the Association is organized is to provide an entity pursuant to the Florida law for the operation of the Spanish Wells subdivision, located in Lee County, Florida.

The Association is organized and shall exist on a non-stock basis as a not-for-profit corporation under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, Director or Officer. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not-for-profit under the laws of the State of Florida, except as expressly limited or modified by these Third Amended and Restated Articles of Incorporation (hereinafter "Articles"), the Third Amended and Restated Declaration of Protective Covenants for Spanish Wells (hereinafter "Declaration"), the Third Amended and Restated Bylaws for Spanish Wells Community Association, Inc. (hereinafter "Bylaws") or the Florida Homeowners' Association Act; and it shall have all the powers and duties reasonably necessary to operate the subdivision pursuant to said Declaration, as it may hereafter be amended, including, but not limited to, the following:

- (A) To fix, levy, collect, and enforce payment by any lawful means, all charges, assessments, or liens pursuant to the terms of the Declaration, and to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the corporation, including all license fees, taxes, or governmental charges levied or imposed against the property or the corporation;
- (B) To make, amend, and enforce reasonable rules and regulations governing the use of the parcels, common areas, and Association owned property, and the operation of the

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Association;

(C) To sue and be sued, and to enforce the provisions of the Declaration, the Articles of Incorporation, the Bylaws, and the reasonable rules of the Association;

(D) To contract for the management and maintenance of the common areas and to delegate any powers and duties of the Association in connection therewith, except such as are specifically required by the Declaration to be exercised by the Board of Directors or the membership of the Association;

(E) To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the Association;

(F) To dedicate, sell, or transfer all or any part of the common areas to any public agency, authority, or utility;

(G) To borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(H) To maintain, repair, replace, and operate the property and business of the Association;

(I) To provide insurance upon the property of the Association and for its Board of Directors;

(J) To acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the corporation;

(K) To grant, modify, or move easements; and

(L) To exercise any and all powers, rights, and privileges that a corporation organized under Chapters 617 and 720 of the Florida Statutes may now or hereafter have or exercise, subject always to the Declaration, as amended from time to time.

All funds and the title to all property acquired by the Association shall be held for the benefit of the members in accordance with the provisions of the Declaration, these Articles of Incorporation, and the Bylaws.

### ARTICLE III

#### MEMBERSHIP.

(A) The Members of the Association shall be the record owners of a Parcel in the subdivision as further provided in the Bylaws.

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(B) The Member's interest in the funds and assets of the Association cannot be assigned or transferred in any manner, except as an appurtenance to a Parcel.

(C) The Owners of each Parcel, collectively, shall be entitled to one vote in Association matters, provided that, for so long as the Country Club is owned by the Association, it shall not be entitled to a vote. Should title to the Country Club be transferred to an Owner who is not the Association, the Owner of the Country Club shall be entitled to one vote in Association matters. The manner of exercising voting rights shall be as set forth in the Bylaws.

ARTICLE IV

TERM. The term of the Association shall be perpetual.

ARTICLE V

BYLAWS. The Bylaws of the Association may be altered, amended, or rescinded in the manner provided therein.

ARTICLE VI

DIRECTORS AND OFFICERS.

(A) The affairs of the Association shall be administered by a Board of Directors consisting of the number of Directors determined by the Bylaws, but not less than three (3) Directors, and in the absence of such determination shall consist of three (3) Directors.

(B) Directors of the Association shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

(C) The business of the Association shall be conducted by the Officers designated in the Bylaws. The Officers shall be elected each year by the Board of Directors at its first meeting after the annual meeting of the members of the Association, and they shall serve at the pleasure of the Board.

ARTICLE VII

AMENDMENTS. Amendments to these Articles shall be proposed and adopted in the following manner:

(A) Proposal. Amendments to these Articles may be proposed by a majority of the Board or by a written petition to the Board, signed by at least one-tenth (1/10) of the voting interests of the Association.

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(B) Procedure. Upon any amendment to these Articles being proposed by said Board or Members, such proposed amendment shall be submitted to a vote of the owners not later than the next annual meeting for which proper notice can be given.

(C) Vote Required. These Articles may be amended if the proposed amendment is approved by at least a majority of the Members present in person or by proxy and voting at a duly noticed meeting called for that purpose at which there is a quorum.

(D) Effective Date. An amendment shall become effective upon filing with the Secretary of State and recording a certified copy in the Public Records of Lee County, Florida, with the formalities required by the Florida law.

ARTICLE VIII

INDEMNIFICATION.

(A) Indemnity. The Association shall indemnify any Director, Officer or committee member who was or is a party to, or is threatened to be made a party to, any threatened, pending, or contemplated action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of service as a Director, Officer, or committee member of the Association, against expenses (including attorney fees and appellate attorney fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit, or proceeding, unless: (1) a Court of competent jurisdiction finally determines, after all appeals have been exhausted or not pursued, that such person did not act in good faith or in a manner they reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, that the person had reasonable cause to believe such conduct was unlawful, and (2) such Court also determines, specifically, that indemnification should be denied. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner that they reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that their conduct was unlawful. It is the intent of the membership of the Association, by the adoption of this provision, to provide the most comprehensive indemnification possible to their Directors, Officers, and committee members as permitted by Florida law.

(B) Advances. The Association shall pay any expenses described above upon presentation by the affected Director, Officer, or committee member, as they accrue and in advance of the final disposition of such action, suit, or proceeding, and shall then seek repayment of such amounts if it shall ultimately be determined that the Director, Officer, or committee member is not entitled to be indemnified by the Association.

(C) Miscellaneous. The indemnification provided herein may not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any Bylaw, agreement, vote of the members, or otherwise, and shall continue as to a person who has

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ceased to be a Director, Officer, or committee member, and shall inure to the benefit of the heirs and personal representatives of such person.

(D) Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, Officer, committee member, employee, or agent of the Association against any liability asserted against them and incurred by them in any such capacity, or arising out of their status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

(E) Amendment. Anything to the contrary herein notwithstanding, the provisions of this Article may not be amended without the approval, in writing, of all persons whose interest would be adversely affected by such amendment.