

JUN 18 '98

9:11AM BROAD AND CASSEL

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FLORIDA DIVISION OF CORPORATIONS
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NAME: SUNMARK PROPERTIES, INC.

AUDIT NUMBER.....H98000011355

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TALLAHASSEE, FLORIDA

Amendment
06-18-98
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Fax Audit Number: H98000011355

**ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
SUNMARK PROPERTIES, INC.
(DOCUMENT NO. P97000031676)**

FILED
98 JUN 18 PM12:18
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607.1006, Florida Statutes, Sunmark Properties, Inc., a Florida corporation (the "Corporation") adopts the following Articles of Amendment to its Articles of Incorporation:

FIRST: Article II of the Corporation's Articles of Incorporation has been amended to read as follows:

"ARTICLE II

The nature of the business and of the purposes to be conducted and promoted by the corporation is to engage solely in the activity of acting as a general partner of a limited partnership whose purpose is to own certain parcels of real property, together with all improvements located thereon (the "Property") and hold, sell, assign, transfer, operate, lease, mortgage, pledge and otherwise deal with the Property. The corporation shall exercise all powers enumerated in the Florida Business Corporation Act necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein."

SECOND: Article XI is hereby added to the Corporation's Articles of Incorporation to read as follows:

"ARTICLE XI

The corporation shall only incur or cause the partnership to only incur indebtedness in an amount necessary to acquire, operate, maintain, repair and improve the Property. For so long as any mortgage lien in favor of First Union National Bank, or its successors or assigns (the "First Mortgage") exists on any portion of the Property, the corporation shall not and shall not cause the partnership to incur, assume, or guaranty any other indebtedness. For so long as the First Mortgage exists on any portion of the Property, and the partnership remains owner of the Property, the corporation: (i) shall not and shall not cause the partnership to dissolve or liquidate, (ii) shall not and shall not cause the partnership to consolidate or merge with or into any other entity, or convey or transfer its properties and assets substantially as an entirety or transfer any of its

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beneficial interests to any entity, (iii) to the extent permitted by applicable law, shall not voluntarily commence a case with respect to itself or cause the partnership to voluntarily commence a case with respect to itself, as debtor, under the Federal Bankruptcy Code or any similar federal or state statute without the unanimous consent of the board of directors, and (iv) shall not materially amend the articles of incorporation or By-Laws of the corporation or the partnership agreement of the partnership without first obtaining approval of the mortgagee holding the First Mortgage on any portion of the Property."

THIRD: Article X of the Corporation's Articles of Incorporation has been amended to add the following at the end thereof:

"Any indemnification of the corporation's directors and officers shall be fully subordinated to any obligations respecting the partnership or the Property (including, without limitation, the First Mortgage) and such indemnification shall not constitute a claim against the corporation or the partnership in the event that cash flow in excess of amounts necessary to pay holders of such obligations is insufficient to pay such obligations."

FOURTH: Article XII is hereby added to the Corporation's Articles of Incorporation to read as follows:

"ARTICLE XII

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

- (a) It shall establish and maintain an office (which may be an office shared with an affiliate) through which its business shall be conducted separate and apart from those of its parent or any affiliate and shall allocate fairly and reasonably any overhead for shared office space.
- (b) It shall maintain corporate records and books of account separate from those of its parent and any affiliate.
- (c) Its board of directors shall hold appropriate meetings (or act by unanimous consent) to authorize all appropriate corporate actions.
- (d) It shall observe all corporate formalities.
- (e) It shall not commingle assets with those of its parent and any affiliate.
- (f) It shall conduct its own business in its own name.

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- (g) It shall maintain financial statements separate from its parent and any affiliate.
- (h) It shall pay any liabilities out of its own funds, including salaries of any employees, not funds of its parent or any affiliate, excluding any affiliate advances which are advanced by an affiliate of the corporation for payment of shared expenses and which are allocated fairly and reasonably to the entities responsible for such liabilities.
- (i) It shall maintain an arm's length relationship with its parent and any affiliate.
- (j) It shall not guarantee or become obligated for the debts of any other entity, including its parent and any affiliate, or hold out its credit as being available to satisfy the obligations of others.
- (k) It shall use stationery, invoices and checks separate from its parent and any affiliate.
- (l) It shall not pledge its assets for the benefit of any other entity, including its parent and any affiliate.
- (m) It shall hold itself out as an entity separate from its parent and any affiliate.

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

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

"parent" with respect to a corporation, any other corporation owning or controlling, directly or indirectly, fifty percent (50%) or more of the voting stock of the corporation.

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

FIFTH: The foregoing amendment was adopted on June 16, 1998.

SIXTH: The foregoing amendment was approved by the shareholders of the Corporation. The number of votes cast for the amendment were sufficient for approval. There were no voting groups entitled to vote separately on the amendment.

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IN WITNESS WHEREOF, Sunmark Properties, Inc., a Florida corporation, has caused these Articles of Amendment to be signed by its President this 16 day of June, 1998.

SUNMARK PROPERTIES, INC.,
a Florida corporation

By: 

Jay Krinsky, President

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