

Filing Fee: \$50.00
(See footnote below)

ID Number: 160894



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Office of the Secretary of State
Corporations Division
100 North Main Street
Providence, Rhode Island 02903-1335

LIMITED LIABILITY COMPANY

**ARTICLES OF AMENDMENT TO
ARTICLES OF ORGANIZATION
(To Be Filed In Duplicate)**

Pursuant to the provisions of Section 7-16-12 of the General Laws, 1956, as amended, the undersigned limited liability company hereby amends its Articles of Organization as follows:

1. The name of the limited liability company is:

1178-1194 Pontiac Avenue LLC

2. The Articles of Organization of the limited liability company as amended or restated to date are amended as follows:

[Insert Amendment(s)]

(If additional space is required, please list on separate attachment)

Paragraph 6 of the Articles of Organization are amended and restated on the continuation sheets attached.

Paragraph 8 is amended to change the Manager to:

1178-1194 Pontiac Avenue, Inc.
c/o RoBeck Management Corp.
89 Providence Highway
Westwood, MA 02090

3. The effective date of this amendment, if later than the date of the filing of these Articles of Amendment, is:

(not more than 30 days after the filing of these Articles of Amendment)

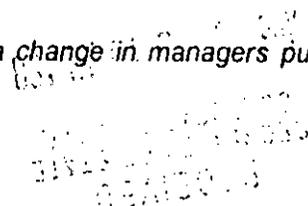
Under penalty of perjury, I declare and affirm that I have examined these Articles of Amendment and that all statements contained herein are true and correct.

Dated: August 5, 19 98

Signature of Authorized Person

Filing fee footnote

If the purpose of this amendment is solely to indicate a change in managers pursuant to Section 7-16-12(a)(2), the filing fee shall be \$10.00.



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By [Signature]

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1. PURPOSES

The sole and exclusive purpose of the Limited Liability Company is to engage in the following business activities:

- a. To acquire, own, hold and manage a certain parcel of land located in Cranston, Rhode Island (the "Property") on which there is presently or will be located a building which is leased to Garden City CVS, Inc. or an affiliate ("Tenant") for use as a pharmacy and store;
- b. To execute, deliver and perform any and all of obligations of the lessor or landlord under a certain Lease of the Property with the Tenant ("Lease") and any and all other leases, or other occupancy agreements with the Tenant or other tenants on the Property;
- c. To execute, deliver and perform a certain Loan Agreement ("Loan Agreement") with Credit Suisse First Boston Mortgage Capital LLC, as Lender ("Lender") and to grant Lender a Mortgage and Security Agreement and Fixture Filing on the Property and an Assignment of Leases and Rents with respect to the Property and to pledge any of its other assets as security for the loan which is the subject of such Loan Agreement, and to execute, deliver and perform such other agreements, certificates, instruments and documents as may be necessary or convenient in connection with such loan transaction (collectively, the "Loan Documents");
- d. To execute, deliver and perform any and all other agreements or obligations related to the acquisition, ownership, operation or management of the Property;
- e. To borrow money and otherwise incur indebtedness from third parties and to pledge or otherwise grant security interests in its assets to secure such indebtedness, but only to the extent permitted hereunder;

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f. To issue membership interests provided for herein and any other securities deemed appropriate by the Members of the Limited Liability Company;

g. To take any and all other action necessary to maintain the existence of the Limited Liability Company as an entity in good standing under the laws of the State of Rhode Island and/or to qualify the Limited Liability Company to do business as a foreign entity in any other state in which such qualification, in the opinion of the Members of the Limited Liability Company, is required; and

h. To engage in any lawful acts or activities and to exercise any powers permitted to limited liability companies organized under the laws of the State of Rhode Island; provided that any such act, activity or power is related or incidental to and necessary, appropriate or convenient for the accomplishment of the foregoing purposes.

2. RESTRICTIONS ON ACTION

Notwithstanding any other provision of these Articles of Organization or the Limited Liability Company's By-Laws or any other provision of law that otherwise so empowers the Limited Liability Company to the contrary, until one year and one day after the date on which all obligations of this Limited Liability Company under the loan evidenced by the Loan Documents (the "Loan") are indefeasibly and fully satisfied, the Limited Liability Company shall not do any of the following:

i) engage in any business or activity other than those set forth in Paragraph 6.1 above;

ii) incur any indebtedness (including, but not limited to, loans from Members), or assume or guaranty any indebtedness of any other entity other than: (A) indebtedness to the Lender under the Loan Documents; and (B) indebtedness permitted under the Loan Documents;

iii) dissolve or liquidate, in whole or in part, consolidate or merge with or into any other entity or convey or transfer its properties and assets substantially as an entirety to any entity;

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iv) acquire all, or substantially all, of the assets or capital stock or other ownership interest of any corporation or other entity;

v) without the affirmative vote or written consent of all of the Members (the phrase "all of the Members," wherever used in the Articles of Organization, shall mean all of the members of the Limited Liability Company who would be in office including at least one (1) Independent Member (as defined below)) institute proceedings to be adjudicated bankrupt or insolvent, consent to the institution of bankruptcy or insolvency proceedings against it, or file, or consent to, a petition seeking reorganization or relief under any applicable federal or state law relating to bankruptcy or insolvency, or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Limited Liability Company or any substantial part of its property, or make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts generally as they become due, or take corporate action in furtherance of any such action; provided, however, that if the Limited Liability Company shall not have at least one (1) Independent Member with at least one (1) Independent Director as required pursuant to Article III of the Independent Member's Certificate of Incorporation, no vote upon any matter set forth in this Paragraph 6.2(v) shall be taken unless and until such an Independent Member with such an Independent Director shall have been duly elected and voting; or

vi) authorize the amendment of these Articles of Organization to: (A) provide for the removal and/or substitution of the Independent Member provided for hereunder unless a new Independent Member is appointed and accepts such appointment; (B) enlarge or alter the permitted business purposes of the Limited Liability Company as provided in this Paragraph 6 ; (c) remove 1178-1194 Pontiac Avenue, Inc. as the Independent Member or as Manager (even upon the

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insolvency or institution of bankruptcy proceedings involving the Limited Liability Company); or (D) permit or cause the Limited Liability Company to dissolve or to liquidate.

3. INDEPENDENT MEMBER

Until a year and a day after the date on which all Loan obligations of the Limited Liability Company are indefeasibly and fully satisfied, the Limited Liability Company shall at all times include at least one (1) Independent Member (as defined below). When voting on matters subject to the vote of all the Members, including those matters specified in Paragraph 6 hereof, notwithstanding that the Limited Liability Company is not then insolvent, the Independent Member shall take into account the interests of the creditors of the Limited Liability Company as well as the interests of the Members.

For purposes of these Articles of Organization, the following terms shall have the following meanings:

I) An "Independent Director" is an individual who is not at the time of his appointment as director of the Independent Member, has not been at any time during the preceding five years, and does not become subsequently: (I) a direct or indirect legal or beneficial holder of any stock, partnership or other equity interest in the Limited Liability Company or the Independent Member or any of their Affiliates; (ii) a Creditor (defined below), Supplier (defined below), employee, officer, director (other than during the individual's tenure as director of the Independent Member), family member, manager, or contractor of the Limited Liability Company or the Independent Member or any of their Affiliates; or (iii) a person who controls (whether directly, indirectly or otherwise) the Limited Liability Company or the Independent Member or their Affiliates or any Creditor, Supplier, officer, director, manager or contractor of the Limited Liability Company or the Independent Member or their Affiliates.

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ii) An "Independent Member" shall be a Delaware corporation whose sole permitted business purpose is to serve as a Member and Manager of this Limited Liability Company, which is a voting Member of the Limited Liability Company and which is required under its Certificate of Incorporation at all times to have at least one (1) Independent Director in office and voting whose affirmative vote is required to authorize such corporation to vote in favor of any of the matters specified in this Paragraph 6 hereof or to amend any of the provisions of these Articles of Organization or such corporation's Certificate of Incorporation concerning those matters for which an amendment requires the affirmative vote of all of the Members of the Limited Liability Company or the entire board of directors of such corporation.

iii) "Affiliate" shall have the same meaning as now defined in § 101 of the United States Bankruptcy Code (the "Code") and shall include all "insiders" (as such term is now defined in Code § 101) with respect to the Limited Liability Company and the Independent Member, except that the percentage of direct or indirect legal or beneficial interest required to be held by the relevant entity shall be 10%, not 20%.

iv) "Creditor" shall mean a person or entity (x) to whom the Limited Liability Company, the Independent Member or any Affiliate thereof has at any time from and after the date hereof outstanding indebtedness in an amount equal to or greater than ten percent (10%) of the Limited Liability Company's, Independent Member's, or such Affiliate's respective total outstanding general unsecured indebtedness at such time, or (y) to whom total payments have been made by the Limited Liability Company, the Independent Member or such Affiliate during the immediately preceding fiscal year which are equal to or greater than ten percent (10%) of the respective gross annual revenues of the Limited Liability Company, Independent Member, or such Affiliate for such immediately

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preceding fiscal year.

v) "Supplier" shall mean a person or entity who provides or has provided goods or services to the Limited Liability Company, the Independent Member, and any Affiliate thereof such that the total payments received by or due to such person or entity by the Limited Liability Company, Independent Member, and such Affiliate during such person's or entity's immediately preceding fiscal year are equal to or greater than ten percent (10%) of such person's or entity's total annual gross revenue for such person's or entity's immediately preceding fiscal year.

vi) "Operating Agreement" shall mean the Operating Agreement of 1178-1194 LLC dated as of April 22, 1998.

4. RESERVATION OF RIGHT TO AMEND ARTICLES OF ORGANIZATION

Notwithstanding anything to the contrary contained in these Articles of Organization, until one year and one day after the date on which all obligations of this Limited Liability Company under the Loan Documents are indefeasibly and fully satisfied, without the prior written consent of all of the Members, the Limited Liability Company shall not amend, alter, change or repeal any of the following sections of the Operating Agreement: 1, 3, 4, 7(I), 9(j), 13, 14 and 16, provided, however, that if the Limited Liability Company shall not have an Independent Member as required by Paragraph 6 hereof, a vote upon any matter set forth in this Article 6 shall not be taken unless and until the Limited Liability Company has at least one such Independent Member and provided further, however, the Members shall provide at least thirty (30) days prior written notice of any such proposed amendment, alteration, change or repeal to the Lender and receive written confirmation from each Rating Agency (as defined in the Loan Documents) then maintaining a rating on any issued securities that such amendment, alteration, change or repeal will not result in the failure of such

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Rating Agency to maintain or reaffirm its rating. Subject to the foregoing limitation of this Article 6, if the Limited Liability Company reserves the right to amend, alter, change or repeal any provisions contained in these Articles of Organization in the manner now or hereafter prescribed by law, and all the provisions of these Articles of Organization and all rights and powers conferred in these Articles of Organization on Members, stockholders, directors and officers are subject to this reserved power.

5. MAINTENANCE OF SEPARATE BUSINESS

The Limited Liability Company shall at all times (a) to the extent its office is located in the offices of any Affiliate pay fair market rent for its office space located therein and not engage in any business transaction with any Affiliate or any other entity unless on an arm's-length basis (b) maintain its books, financial statements, accounting records and other corporate documents and records separate from those of any Affiliate or any other entity and characterize itself as a separate entity from any other Affiliate or entity in each and every report, tax return or financial statement, (c) not commingle its assets with those of any Affiliate or other entity, (d) maintain its books of account, bank accounts and payroll separate from those of any Affiliate, (e) act solely in its own name and through its own authorized officers and agents, use separate stationery, invoices and checks and in all respects, hold itself out as a separate entity separate and distinct from its Members and any other entity, (f) make investments directly or by brokers engaged and paid by the Limited Liability Company or its agents (provided that if any such agent is an Affiliate of the Limited Liability Company it shall be compensated at a fair market rate for its services), (g) separately manage the Limited Liability Company's liabilities from those of its Members and all other Affiliates and pay its own liabilities, including all administrative expenses and compensation to employees, consultants or agents, and all operating expenses, from its own separate assets, except that a Member or other

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Affiliate may pay the organizational expenses of the Limited Liability Company and maintain a sufficient number of employees in light of the Limited Liability Company's contemplated business operations, (h) pay from the Limited Liability Company's assets all obligations and indebtedness of any kind incurred by the Limited Liability Company, (i) not acquire obligations or security of the Limited Liability Company's Members or Affiliates, (j) use separate stationery, invoices and checks, (k) not pledge the Limited Liability Company's assets for the benefit of any entity or make any loans or advances to any entity, (l) correct any known misunderstanding regarding the Limited Liability Company's separate identity, and (m) maintain adequate capital in light of its contemplated business operations. The Limited Liability Company shall abide by all organizational formalities, including the maintenance of current minute books, and the Limited Liability Company shall cause its financial statements to be prepared in accordance with generally accepted accounting principles in a manner that indicates the separate existence of the Limited Liability Company and its assets and liabilities. The Limited Liability Company shall (i) pay all its liabilities, (ii) not assume the liabilities of any Member or other Affiliate or incur liability to any owner other Affiliate or its creditors, and (iii) not guarantee the liabilities of any Member or any other Affiliate or any other party. The officers, directors and Members of the Limited Liability Company (as appropriate) shall make decisions with respect to the business and daily operations of the Limited Liability Company independent of and not dictated by any Member or other Affiliate. The Members of the Limited Liability Company shall be required to consider the interests of the creditors of the Limited Liability Company in connection with all actions conducted by the Limited Liability Company.

6. DISSOLUTION

Upon the occurrence of any Dissolution Event as defined in Section 13 of the Operating

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Agreement, the Limited Liability Company shall be deemed to have dissolved unless, within ninety (90) days after such date, a majority in interest of its remaining Members (which majority shall include the affirmative written consent of the Independent Member) affirmatively agree in writing to continue the business of the Limited Liability Company. If the consent required to continue the Limited Liability Company's business is not obtained following the occurrence of a Dissolution Event in accordance with the preceding sentence, until the date on which all obligations of this Limited Liability Company in connection with the Loan and under the Loan Documents are indefeasibly and fully satisfied, the Limited Liability Company shall not sell, exchange, transfer or otherwise seek to liquidate or dispose of its assets, its interest in any assets or any other asset which is subject to a lien in favor of the Lender without the Lender's prior written consent pursuant to the Loan Documents.

7. ASSIGNMENT

If the assignment of any membership or beneficial interest in the Limited Liability Company results in any assignee becoming the owner of 49% or more of the outstanding membership or beneficial interest in the Limited Liability Company, written confirmation shall be required to be received from each rating agency then maintaining a rating on any security issued to fund the debt described in the Loan Documents that such assignment will not result in the failure of such rating agency to maintain or reaffirm its rating.

8. SUBORDINATION

Any obligation which the Limited Liability Company may owe to any of its members or Affiliates, whether characterized as a loan, salary, a fee or indemnification, shall be subject to and subordinate to the prior payment in full of the Loan, provided however, so long as no Default or Event of Default exists under the Loan Documents to the extent the Limited Liability Company

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has cash flow or other available liquid assets (exclusive of any of the Reserve Accounts to be maintained under the Loan Documents) in excess of the amount necessary to make current payments of principal and interest due under the Loan Documents, the Limited Liability Company may pay obligations hereunder due to the members and Affiliates of the Limited Liability Company.