

FOR REGISTRATION
Sharon A. Davis
REGISTER OF DEEDS
Durham County, NC
2017 FEB 13 03:39:56 PM
BK:8124 PG:330-335
MEMORANDUM
FEE:\$26.00
INSTRUMENT # 2017004795

APRILJ



2017004795

Prepared by Matthew S. Moore, III, Esq.
Return to Fidelity National Title, 421 Fayetteville St., Ste 1304, Raleigh, NC 27601

STATE OF NORTH CAROLINA
DURHAM COUNTY

MEMORANDUM OF MODIFICATION TO GROUND LEASE

This Memorandum of Modification to Ground Lease dated the 10th day of February, 2017 is by and between Southeastern Building Corporation, a North Carolina corporation, successor by merger to Southeastern Development Corporation, a North Carolina corporation*("Landlord") and Foster Retail LLC, a Georgia limited liability company qualified to do business in North Carolina, ("Tenant")
** See Articles of Merger attached hereto and incorporated herein by reference.*

WITNESSETH

Landlord and 401 Foster Street LLC, a North Carolina limited liability company ("Original Tenant") entered into a Lease Agreement dated November 12, 2004 (the "Lease") whereby Landlord leased to Original Tenant that certain parcel of land and improvements thereon located at 401 Foster Street, Durham, North Carolina and more particularly described on Exhibit A attached hereto and made a part hereof (the "Property").

A Memorandum of Ground Lease was recorded February 1, 2006 in Book 5101 Page 932-937, Durham County Registry.

Original Tenant has assigned its interest in the Lease to Tenant, and Landlord has agreed to certain modifications to the Lease pursuant to a Lease Modification Agreement dated as of the 10th day of February, 2017 (the "Modification").

Pursuant to the Modification: (i) the expiration date of the term of the Lease has been extended from December 31, 2049 to December 31, 2070, unless sooner terminated as provided in the Lease, (ii) the right to terminate the Lease on the 5th, 15th, and 25th lease year has been deleted so that the only right to terminate the Lease is now on the 35th lease year, and (iii) the Tenant has an option to purchase the Property beginning January 1, 2030 and ending December 31, 2035.

The provisions in the Lease, as modified by the Modification, are hereby incorporated in this Memorandum of Modification to Ground Lease.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized officers as of the day and year first above written.

LANDLORD:

SOUTHEASTERN BUILDING CORPORATION

By: [Signature]
Howard P. Satsky, President

TENANT:

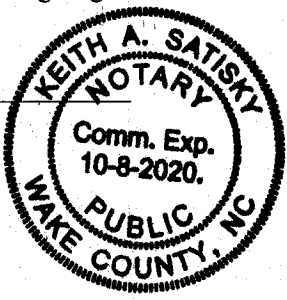
FOSTER STREET LLC, a Georgia limited liability company authorized to do business in North Carolina

By: _____
Name: _____
Title: _____

State of North Carolina
County of WAKE

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document in the capacity indicated: Howard P. Satsky, President

Date: 2-8-2017



[Signature]
Notary Public

(Official/Notarial Seal)

My commission expires: 10-8-2020

State of _____
County of _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document in the capacity indicated: _____

Date: _____

Notary Public

(Official/Notarial Seal)

My commission expires: _____

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their duly authorized officers as of the day and year first above written.

LANDLORD:

SOUTHEASTERN BUILDING CORPORATION

By: _____
Howard P. Satsky, President

TENANT:

FOSTER RETAIL LLC, a Georgia limited liability company authorized to do business in North Carolina

By: _____
Name: James M. Weaver, Jr.
Title: Manager

State of _____
County of _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document in the capacity indicated: _____

Date: _____

Notary Public

(Official/Notarial Seal)

My commission expires: _____

State of Georgia
County of Fulton

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document in the capacity indicated: James M. Weaver, Jr., Manager

Date: February 9, 2017

Janice H. Bontempo
Notary Public

(Official/Notarial Seal)

My commission expires: February 9, 2019

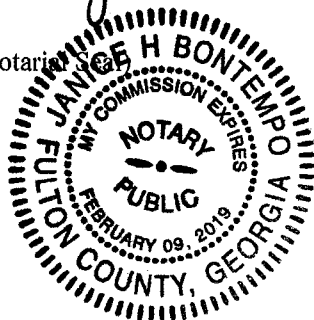


EXHIBIT A

Tract 1

BEGINNING at a stake in the inside of the sidewalk on the west side of Foster Street which stake is located South 7 deg. 15 min. 30 sec. West 129.45 feet from the point of intersection of the inside of the sidewalk on the west side of Foster Street with the south side of Hunt Street, said point of beginning designated "Control Corner"; and running thence along and with the inside of the sidewalk on the west side of Foster Street South 7 deg. 15 min. 30 sec. West 140.83 feet to a railroad spike in concrete, the northeast corner of property designated "Sold to Clark & Sorrell"; running thence along and with the northern property line of property designated "Sold to Clark & Sorrell" North 82 deg. 45 min. 00 sec. West 92.53 feet to a stake in the line of Montgomery & Aldridge Investment Company; running thence along and with the eastern property line of Montgomery & Aldridge Investment Company North 7 deg. 26 min. East 135.36 feet to an iron stake at the southwest corner of a 10-foot alley; running thence South 86 deg. 09 min. East 92.28 feet to a stake designated "Control Corner"; the point and place of BEGINNING and being that property designated "W.P. Henry Estate, part of Deed Book 64-563" as shown on plat and survey entitled "Survey for Southeastern Development Corporation", by George C. Love, Jr. dated January 9, 1967, of record in the office of Register of Deeds of Durham County in Plat Book 56 at page 71, to which reference is hereby made for more particular description of same.

Tract 2

BEGINNING at a stake on the West side of Foster Street South 6 deg. 30 min. West 82.33 feet from the south side of Hunt Street at the Southeast corner of Vickers Motor Company as shown on the plat hereinafter referred to, and thence continuing along and with the property line on the West side of Foster Street South 6 deg. 30 min. West 47.04 feet to a stake; thence North 87 deg. 05 min. West 82 feet to a stake in the East side of a 10 foot alley; thence along and with the East side of said alley North 6 deg. 30 min. East 48 feet to a stake; thence South 86 deg. 15 min. East 82 feet to a stake in the property line on the West side of Foster Street; the point of beginning and being the Property of C. Sam Williams as per plat and survey of Hunter Jones C.E. dated December 1947 and now on file in the Office of the Register of Deeds of Durham County in Plat book 20 page 32 to which reference is hereby made for a more particular description.



NORTH CAROLINA

Department of the Secretary of State

To all whom these presents shall come, Greetings:

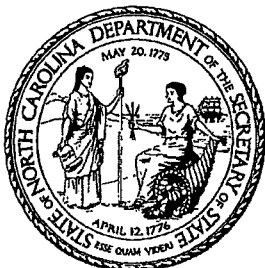
I, Elaine F. Marshall, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF MERGER

OF

SOUTHEASTERN BUILDING CORPORATION

the original of which was filed in this office on the 23rd day of December, 2013.



Scan to verify online.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 6th day of February, 2017.

Elaine F. Marshall

Secretary of State

*State of North Carolina
Department of the Secretary of State*

SOSID: 0136482 Date Filed: 12/23/2013 4:34:00 PM Effective: 12/31/2013 Elaine F. Marshall North Carolina Secretary of State C2013 353 00501
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ARTICLES OF MERGER

Pursuant to North Carolina General Statute Sections 55-11-05(a), 55A-11-09(d), 55A-11-04, 57C-9A-22(a), 59-73.32(a) and 59-1072(a), as applicable, the undersigned entity does hereby submit the following Articles of Merger as the surviving business entity in a merger between two or more business entities.

The name of the surviving entity is **Southeastern Building Corporation**, a (check one) **corporation**, nonprofit corporation, professional corporation, limited liability company, limited partnership, partnership, limited liability partnership organized under the laws of **North Carolina** (state or country).

1. The address of the surviving entity is:

c/o Howard Satsky
900 Ridgefield Drive, Suite 250
Raleigh, Wake County, North Carolina 27609

(Complete only if the surviving business entity is a foreign business entity that is not authorized to transact business or conduct affairs in North Carolina.) The mailing address of the surviving foreign business entity is: _____

_____ The Surviving foreign business entity will file a statement of any subsequent change in its mailing address with the North Carolina Secretary of State.

2. For each merging entity: (if more than one, complete on separate sheet and attach.)
 The name of the merged entity is **Southeastern Development Corporation**, a (check one) **corporation**, nonprofit corporation, professional corporation, limited liability company, limited partnership, partnership, limited liability partnership organized under the laws of **North Carolina** (state or country).
3. If the surviving business entity is a domestic business entity, the text of each amendment, if any, to the Articles of Incorporation, Articles of Organization, or Certificate of Limited Partnership within the Plan of Merger is attached.
4. A Plan of Merger has been duly approved in the manner required by law by each of the business entities participating in the merger.
5. These articles will be effective as of 11:59 pm December 31, 2013.

This the 19 day of December, 2013.

Southeastern Building Corporation.

By: _____

Howard P. Satsky, Vice-president

NOTES:

1. Filing fee is \$50 for For-profit entities.
2. Filing fee is \$25 for Non-profit entities.
3. This document must be filed with the Secretary of State. Certificate(s) of Merger must be registered pursuant to the requirements of N.C.G.S. Section 47-18.1

(Revised September 2005)
 CORPORATIONS DIVISION

P. O. BOX 29622

(Form BE-15)
 RALEIGH, NC 27626-0622