

For Registration
Fredrick Smith
Register of Deeds
Mecklenburg County, NC
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2022 Dec 21 09:22 AM RE Excise Tax: \$ 0.00
Book: 37842 Page: 525 - 542 Fee: \$ 38.00
Instrument Number: 2022166527



Prepared by and return to:
Kirk Palmer & Thigpen, P.A. (BDH)
1300 Baxter Street, Suite 300
Charlotte, NC 28204

**AMENDMENT TO
DECLARATION OF EASEMENTS, RESTRICTIONS AND PROTECTIVE COVENANTS
FOR PINEVILLE DISTRIBUTION PARK**

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

THIS AMENDMENT TO DECLARATION OF EASEMENTS, RESTRICTIONS AND PROTECTIVE COVENANTS FOR PINEVILLE DISTRIBUTION PARK (this "Amendment") is executed effective as of the 29th day of November, 2022 (the "Effective Date"), by and between **LAKEMONT PROPERTY INVESTORS, LLC**, a North Carolina limited liability company ("Declarant"), **BERKSHIRE PARTNERS #20, LLC**, a North Carolina limited liability company ("Berkshire #20"), **BERKSHIRE PARTNERS, #26, LLC**, a North Carolina limited liability company ("Berkshire #26"), **CONCORD CALIFORNIA ASSOCIATES, LLC**, a North Carolina limited liability company ("CCA"), and **BIN - PDS LLC**, a North Carolina limited liability company ("BIN - PDS"; Declarant, Berkshire #20, Berkshire #26, CCA and BIN - PDS are collectively referred to in this Amendment as "Owners"), with the consent of **EQUITABLE FINANCIAL LIFE INSURANCE COMPANY**, a New York corporation and **SOUTH STATE BANK, NATIONAL ASSOCIATION** ("Lenders") and **PINEVILLE DISTRIBUTION PARK PROPERTY OWNERS ASSOCIATION, INC.**, a North Carolina non-profit corporation (the "Association").

WITNESSETH:

WHEREAS, Declarant is the "Declarant" under that certain Declaration of Easements, Restrictions and Protective Covenants for Pineville Distribution Park (the "Declaration") dated July 23, 2018 and recorded on July 24, 2018 in Book 32850, Page 835 in the Office of the Register of Deeds for Mecklenburg County, North Carolina ("Registry"). All capitalized terms used but not defined in this Amendment shall have the meanings given those terms in the Declaration.

WHEREAS, the Declaration encumbers certain properties as described in the Declaration (the "Properties") and, pursuant to Section 3 of Article IX of the Amendment may be amended by an instrument signed by at least sixty-seven percent (67%) of the Total Votes and the prior written approval of the Declarant so long as Declarant owns any portion of the Properties.

WHEREAS, Declarant still owns a portion of the Properties.

WHEREAS, Berkshire #20 is the owner of Lot 1 as shown on that certain plat recorded in Plat Book 65 at Page 794 of the Registry (the "Plat") by virtue of that certain deed recorded in Book 33949 beginning at Page 607 of the Registry.

WHEREAS, Berkshire #26 is the owner of Lot 2 as shown on the Plat by virtue of that certain deed recorded in Book 35247 beginning at Page 478 of the Registry.

WHEREAS, CCA is the owner of Lot 3 as shown on the Plat by virtue of that certain deed recorded in Book 33190 beginning at Page 139 of the Registry.

WHEREAS, BIN - PDS is the owner of Lot 5 as shown on the Plat (the "BIN-PDS Lot") by virtue of that certain deed recorded in Book 32850 beginning at Page 865 of the Registry.

WHEREAS, the Declarant and the Owners desire to amend the Declaration to clarify the obligations of the Owners to pay Annual Assessments and to cause the Vacated Easement Areas (as defined herein) to be abandoned, discharged, vacated and released.

WHEREAS, the Association joins in this Amendment for the limited purposes of consenting to the abandonment, discharge, vacation and release of the Vacated Easement Areas.

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration, the Declarant and Owners, for themselves and their successors and/or assigns in title relative to the Properties, hereby amend the Declaration as follows:

1. The text of the first paragraph of Section 3 of Article V is deleted and replaced with the following:

Annual Assessment. The Annual Assessment for each Member for each calendar year shall be as set forth on Exhibit C attached hereto and incorporated herein by reference. In the event any of the Lots (each an "Original Lot") as reflected on Exhibit C are further subdivided or recombined, the Lots resulting from such subdivision or recombination shall allocate among themselves the Annual Assessments allocated to the Original Lot out of which they were derived and reflect such allocation either on the plat causing the subdivision or recombination or in an amendment to this Declaration. The Association shall establish the Annual Assessment based on projected expenditures for the calendar year for which such computation is made. The Annual Assessment shall not commence until the calendar year 2020. Notwithstanding anything contained herein to the contrary, in no event shall the Owner of the BIN – PDS Lot be required to pay any amounts or costs in connection with (i) the conversion of the BMP to a permanent BMP in accordance with all applicable laws, rules and regulations in excess of an amount equal to the lesser of (x) nine percent (9%) of such out-of-pocket costs actually incurred by Declarant, or (y) Twenty Thousand and No/100 Dollars (\$20,000.00), or (ii) the bonding or other security as may be required by the governmental authority having jurisdiction over the BMP prior to such time as the BMP is converted to a permanent BMP in accordance with all applicable laws, rules and regulations. Notwithstanding anything contained herein to the contrary, in no event shall the Owner of Lot 3 be required to pay any amounts or costs in connection with (i) the conversion of the BMP to a permanent BMP in accordance with all applicable laws, rules or regulations in excess of an amount equal to the lesser of (x) five and eighteen hundredths percent (5.18%) of such out-of-pocket costs actually incurred by Declarant, or (y) Eleven Thousand Five Hundred Eleven and 11/100 Dollars (\$11,511.11) or (ii) the bonding or other security as may be required by the governmental authority having jurisdiction over the BMP prior to such time as the BMP is converted to a permanent BMP in accordance with

all applicable laws, rules or regulations. In the event the costs in connection with the conversion of the BMP to a permanent BMP in accordance with all applicable laws, rules or regulations exceeds the amount of Two Hundred Twenty-Two Thousand Two Hundred and Twenty-Two and 22/100 Dollars (\$222,222.22), Declarant shall pay the costs in excess of such amount. Further, Declarant shall pay for the cost of bonding or other security as may be required by the governmental authority having jurisdiction over the BMP prior to such time as the BMP is converted to a permanent BMP in accordance with all applicable laws, rules and regulations.

2. The Declaration is hereby amended to attach and include **Exhibit C**, a copy of which is attached to this Amendment as "**Exhibit C**" and incorporated herein by reference.
3. The Declaration is hereby amended to abandon, discharge, vacate and release (i) that certain twenty-foot (20') Utility Easement encumbering each of the Properties described in Article I, Section 21 of the Declaration and granted pursuant to Article IV, Section 1 of the Declaration, (ii) the portion of that certain twenty-foot (20') Storm Drainage Easement encumbering Lot 2, established pursuant to the Plat and granted pursuant to Article IV, Section 2 of the Declaration and identified as "Portion of 20' Storm Drainage Easement Vacated" on **Exhibit A** attached hereto and incorporated herein, and (iii) the portion of the twenty-foot (20') Association Landscape and Easement Area encumbering Lot 2 described in Article I, Section 2 of the Declaration, granted pursuant to Article IV, Section 1 of the Declaration and identified as "Portion of 20' Association Landscape Easement Being Vacated" on **Exhibit B** attached hereto and incorporated herein (collectively, the "**Vacated Easement Areas**") from all right, claim or easement of the Owners and the Association, pursuant to the terms of the Declaration, the Plat or otherwise.
4. To the extent of any conflict between the provisions of the Declaration and the provisions of this Amendment, this Amendment shall supersede and control.
5. Except as specifically set forth herein, the Declaration remains unchanged and in full force and effect, and Owners and the Association, by their execution of this Amendment, hereby ratify, affirm and approve the Declaration, as amended hereby.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the Declarant has executed this Amendment effective as of the day and year first above written.

LAKEMONT PROPERTY INVESTORS, LLC,
a North Carolina limited liability company

By: *Bailey W. Patrick*
Name: Bailey W. Patrick
Title: Manager

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

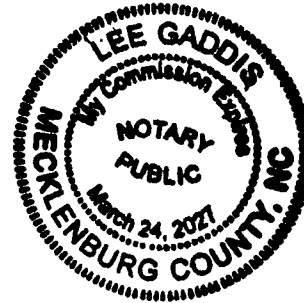
I, Lee Gaddis, a Notary Public of the State of North Carolina
County of Mecklenburg, certify that Bailey W. Patrick, the Manager of Lakemont Property
Investors, LLC, a North Carolina limited liability company, who is personally known to me or
 I have seen satisfactory evidence of his identity, personally appeared before me this day and
acknowledged the due execution of the foregoing instrument on behalf of the company.

Witness my hand and notarial seal, this the 17 day of September, 2022.

Lee Gaddis
Notary Public
Print Name: Lee Gaddis

My Commission Expires:

March 24, 2027



IN WITNESS WHEREOF, Berkshire #20 has executed this Amendment effective as of the day and year first above written.

BERKSHIRE PARTNERS #20, LLC,
a North Carolina limited liability company

By: *David H. Nance*
David H. Nance, Manager

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

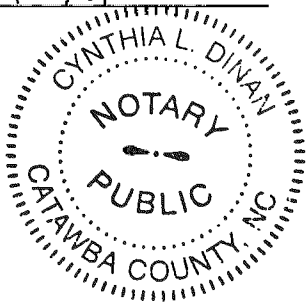
I, Cynthia L. Dinan, a Notary Public of the State of NC,
County of Catawba, certify that David H. Nance, the Manager of Berkshire Partners #20, LLC,
a North Carolina limited liability company, who is personally known to me or I have seen
satisfactory evidence of his identity, personally appeared before me this day and acknowledged the due
execution of the foregoing instrument on behalf of the company.

Witness my hand and notarial seal, this the 20 day of Oct. ~~September~~, 2022.

Cynthia L. Dinan
Notary Public
Print Name: Cynthia L. Dinan

My Commission Expires:

7/27/25



IN WITNESS WHEREOF, Berkshire #26 has executed this Amendment effective as of the day and year first above written.

BERKSHIRE PARTNERS #26, LLC,
a North Carolina limited liability company

By: *David H. Nance*
David H. Nance, Manager

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

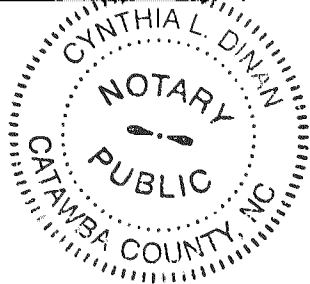
I, *Cynthia L. Dihan*, a Notary Public of the State of *NC*,
County of *Catawba*, certify that *David H. Nance*, the Manager of Berkshire Partners #26, LLC,
a North Carolina limited liability company, who is personally known to me or _____ I have seen
satisfactory evidence of his identity, personally appeared before me this day and acknowledged the due
execution of the foregoing instrument on behalf of the company.

Witness my hand and notarial seal, this the *20* day of *Oct.* ~~September~~, 2022.

Cynthia L. Dihan
Notary Public
Print Name: *Cynthia L. Dihan*

My Commission Expires:

7/27/25



IN WITNESS WHEREOF, CCA has executed this Amendment effective as of the day and year first above written.

CONCORD CALIFORNIA ASSOCIATES, LLC,
a North Carolina limited liability company

By: [Signature]
Name: RISHI KAPADIA
Title: MANAGER

STATE OF California
COUNTY OF Los Angeles

I, Magali Gallegos, a Notary Public of the State of California,
County of Los Angeles, certify that Rishi Kapadia, the Manager of
Concord California Associates, LLC, a North Carolina limited liability company, who is _____ personally
known to me or _____ I have seen satisfactory evidence of his identity, personally appeared before me
this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

Witness my hand and notarial seal, this the 19 day of October, 2022.

[Signature]
Notary Public
Print Name: Magali Gallegos

My Commission Expires:
Jan. 10, 2023

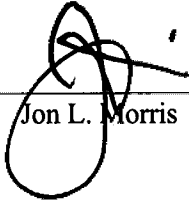


IN WITNESS WHEREOF, BIN - PDS has executed this Amendment effective as of the day and year first above written.

BIN - PDS LLC,
a North Carolina limited liability company

By: Beacon Industrial Holdings LLC, a North Carolina limited liability company, its Manager

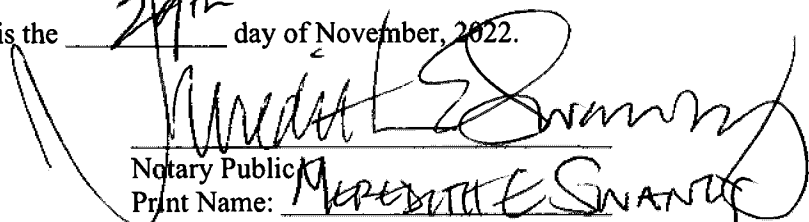
By: Beacon GP LLC, a North Carolina limited liability company, its Manager

By: 
Jon L. Morris

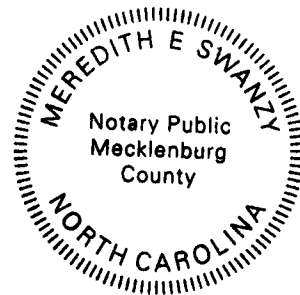
STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Meredith E Swanzey, a Notary Public of Mecklenburg County North Carolina, certify that Jon L. Morris, a Manager of Beacon GP LLC, a North Carolina limited liability company, which is the Manager of Beacon Industrial Holdings LLC, a North Carolina limited liability company, which is the Manager of BIN - PDS LLC, a North Carolina limited liability company, who is personally known to me, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the companies.

Witness my hand and notarial seal, this the 29th day of November, 2022.


Notary Public
Print Name: Meredith E Swanzey

My Commission Expires:
SEPTEMBER 29, 2023



IN WITNESS WHEREOF, Association has executed this Amendment effective as of the day and year first above written.

**PINEVILLE DISTRIBUTION PARK
PROPERTY OWNERS ASSOCIATION, INC.,**
a North Carolina non-profit corporation

By: *Ian Bruce*
Name: Ian Bruce
Title: Vice President

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Lee Gaddis, a Notary Public for the County of Mecklenburg, and State of North Carolina, do hereby certify that Ian Bruce VP of Pineville Distribution Park Property Owners Association, Inc., a North Carolina non-profit corporation, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of said limited liability company.

Witness my hand and official stamp or seal, this 18 day of September, 2022.

Lee Gaddis
Notary Public
Lee Gaddis
Notary's Printed Name

My Commission Expires:

March 24, 2027

[AFFIX NOTARY SEAL BELOW]

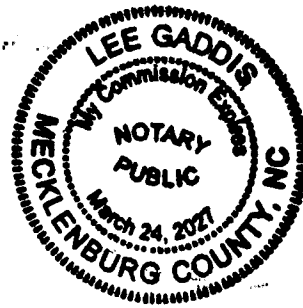
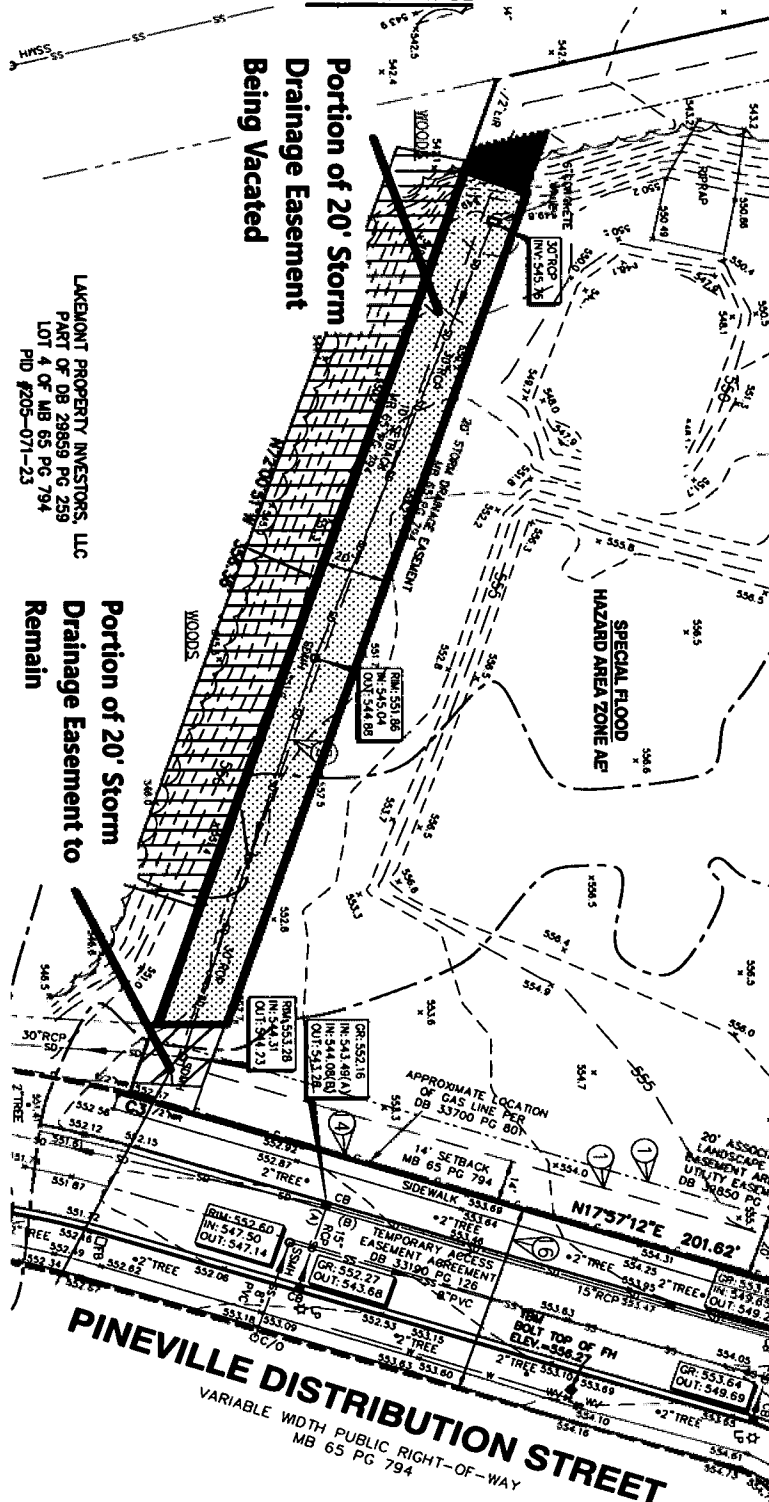


EXHIBIT A



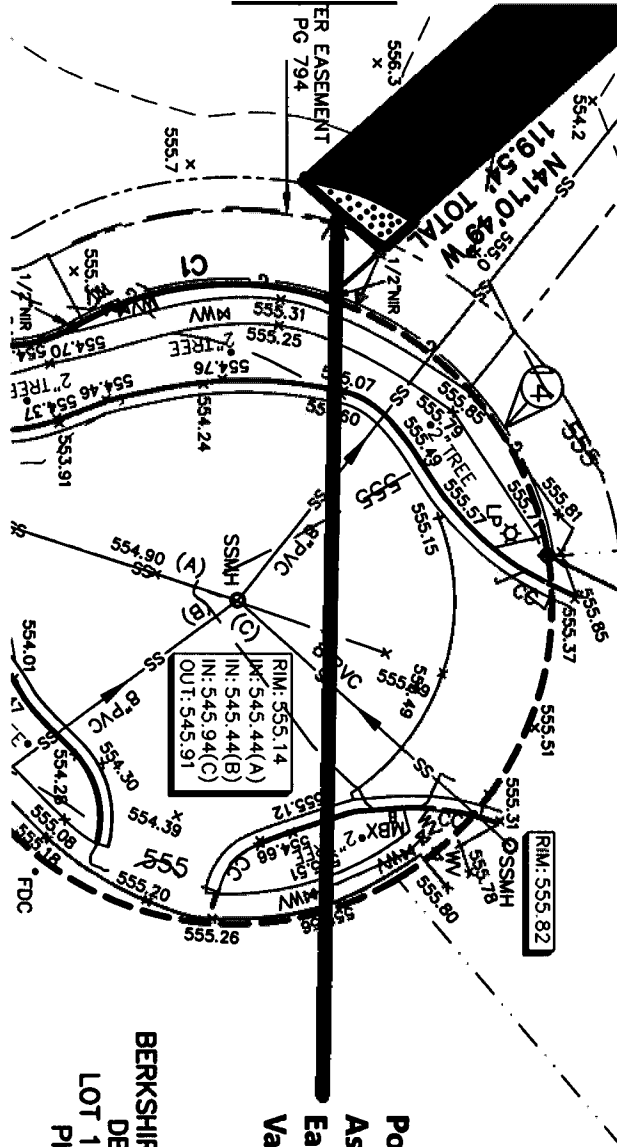
LAKEMONT PROPERTY INVESTORS, LLC
 PART OF DB 29859 PG 259
 LOT 4 OF MB 65 PG 794
 PID #205-071-23

Portion of 20' Storm
 Drainage Easement to
 Remain

Portion of 20' Storm
 Drainage Easement
 Being Vacated

THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS

EXHIBIT B



**Portion of 20'
Association Landscape
Easement Being
Vacated**

**BERKSHIRE PARTNERS #20, LLC
DB 33949 PG 607
LOT 1 OF MB 65 PG 794
PID #205-071-21**

THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS

EXHIBIT C

Lot	Percentage of Annual Assessment for BMP, including cost of permanent conversion but not including the costs of bonding or other security as required by applicable governmental authority prior to conversion	Percentage of Annual Assessment for Common Areas, Designated Maintenance Items and Association Landscape and Easement Areas
1	50.66	10.19%
2	35.16	6.84%
3	5.18	27.97%
5	9%	55%
	100.00%	100.00%

CONSENT AND SUBORDINATION OF
LENDER AND TRUSTEE WITH RESPECT TO
AMENDMENT TO DECLARATION OF EASEMENTS, RESTRICTIONS, AND PROTECTIVE
COVENANTS
FOR PINEVILLE DISTRIBUTION PARK

This Consent and Subordination of Lender and Trustee ("Consent and Subordination") is made and entered into this 26th day of October, 2022 by SOUTHSTATE BANK, NATIONAL ASSOCIATION ("Lender") and SSB REALTY, INC. ("Trustee") and may be recorded separately or attached to the Amendment to Declaration of Easements, Restrictions and Protective Covenants for Pineville Distribution Park.

A. WHEREAS, Lender made a loan (the "BP #20 Loan") to Berkshire Partners #20, LLC, which Loan is secured in part by the following Deed of Trust (the "BP #20 Deed of Trust"):

Grantor:	Berkshire Partners #20, LLC
Lender:	Lender
Trustee:	SSB Realty, Inc.
Date:	November 7, 2019
Recorded:	November 7, 2019 in Book 34020 beginning at Page 380 in the Office of the Mecklenburg County Register of Deeds

B. WHEREAS, Lender made a loan (the "BP #26 Loan," and, together with the BP #20 Loan, the "Loans") to Berkshire Partners #20, LLC, which Loan is secured in part by the following Deed of Trust (the "BP #26 Deed of Trust," and, together with the BP #20 Deed of Trust, the "Deeds of Trust"):

Grantor:	Berkshire Partners #26, LLC
Lender:	Lender
Trustee:	SSB Realty, Inc.
Date:	February 14, 2022
Recorded:	February 14, 2022 in Book 34020 beginning at Page 380 in the Office of the Mecklenburg County Register of Deeds

C. WHEREAS, Grantor has or contemporaneously herewith will enter into that certain Amendment to Declaration of Easements, Restrictions and Protective Covenants for Pineville Distribution Park which has been or herewith will be recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina (the "Amendment") which amends that certain existing Declaration of Easements, Restrictions and Protective Covenants for Pineville Distribution Park which is dated July 23, 2018 and recorded on July 24, 2018 in Book 32850, Page 835 of the Mecklenburg County Register of Deeds (collectively with the Amendment, the "Declaration");

D. WHEREAS, the properties that are encumbered by the Deeds of Trust are subject to the Declaration; and

D. WHEREAS, Grantor has requested that Lender and Trustee consent to the Amendment and subordinate the lien of the Deeds of Trust to the Declaration, as amended by the Amendment.

NOW, THEREFORE, for the sum of \$10.00 paid by Grantor to Lender, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Lender and Trustee

do hereby consent to the recordation of the Amendment and the terms and provisions thereof, and they do hereby further consent and agree that from and after this date, the provisions of the Declaration, as amended by the Amendment, shall be superior to the rights created in the Deeds of Trust, such that in the event of a foreclosure of the Deeds of Trust or acquisition by Lender of the properties described in the Deeds of Trust, by deed in lieu of foreclosure, such foreclosure or acquisition shall not result in a termination of the Declaration or the rights, easements and obligations created thereby.

[Signatures Appear on Following Pages]

IN WITNESS WHEREOF, the Lender has executed this Consent and Subordination effective as of the day and year first above written.

SOUTHSTATE BANK, NATIONAL ASSOCIATION,
a national banking corporation

By: Charles Lyle
Name: Charles Lyle
Title: SVP

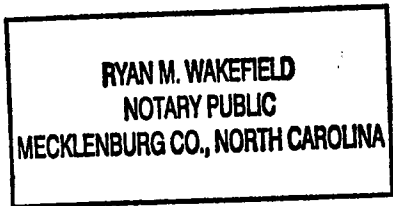
STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Ryan M. Wakefield, a Notary Public of the State of North Carolina, County of Mecklenburg, certify that Charles Lyle, the SVP of SouthState Bank, National Association, who is personally known to me or I have seen satisfactory evidence of his/her identity, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the bank.

Witness my hand and notarial seal, this the 26th day of October, 2022.

Ryan M. Wakefield
Notary Public
Print Name: Ryan M. Wakefield

My Commission Expires:
Sept. 25, 2024



IN WITNESS WHEREOF, the Trustee has executed this Consent and Subordination effective as of the day and year first above written.

SSB REALTY, INC.,

By: Charles Lyle
Name: Charles Lyle
Title: SVP

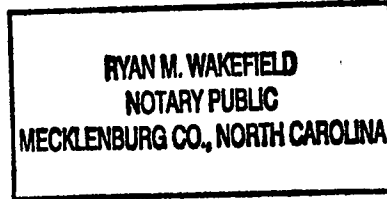
STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Ryan M. Wakefield, a Notary Public of the State of North Carolina, County of Mecklenburg, certify that Charles Lyle, the SVP of SSB REALTY, Inc., who is personally known to me or I have seen satisfactory evidence of his/her identity, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the corporation.

Witness my hand and notarial seal, this the 26th day of October, 2022.

Ryan M. Wakefield
Notary Public
Print Name: Ryan M. Wakefield

My Commission Expires:
Sept. 25, 2024



CONSENT AND SUBORDINATION OF
LENDER WITH RESPECT TO
AMENDMENT TO DECLARATION OF EASEMENTS, RESTRICTIONS, AND PROTECTIVE
COVENANTS
FOR PINEVILLE DISTRIBUTION PARK

This Consent and Subordination of Lender and Trustee ("Consent and Subordination") is made and entered into as of this 10th day of November, 2022 by EQUITABLE FINANCIAL LIFE INSURANCE COMPANY, a New York corporation ("Lender"), and may be recorded separately or attached to the Amendment to Declaration of Easements, Restrictions and Protective Covenants for Pineville Distribution Park.

A. WHEREAS, Lender made a loan (the "Loan") to BIN - PDS LLC, which Loan is secured in part by the following Deed of Trust (the "Deed of Trust");

Grantor:	BIN - PDS LLC
Lender:	Lender
Date:	November 17, 2021
Recorded:	November 19, 2021 in Book 36784 beginning at Page 1 in the Office of the Mecklenburg County Register of Deeds

B. WHEREAS, Grantor has or contemporaneously herewith will enter into that certain Amendment to Declaration of Easements, Restrictions and Protective Covenants for Pineville Distribution Park which has been or herewith will be recorded in the Office of the Register of Deeds for Mecklenburg County, North Carolina (the "Amendment") which amends that certain existing Declaration of Easements, Restrictions and Protective Covenants for Pineville Distribution Park which is dated July 23, 2018 and recorded on July 24, 2018 in Book 32850, Page 835 of the Mecklenburg County Register of Deeds (collectively with the Amendment, the "Declaration");

C. WHEREAS, the property that is encumbered by the Deed of Trust is subject to the Declaration; and

D. WHEREAS, Grantor has requested that Lender consent to the Amendment and subordinate the lien of the Deed of Trust to the Declaration, as amended by the Amendment, subject to the provisions of the Declaration, including, without limitation, the provisions of Article V, Sections 9 and 10 and Article VI, Section 1 of the Declaration.

NOW, THEREFORE, for the sum of \$10.00 paid by Grantor to Lender, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Lender does hereby consent to the recordation of the Amendment and the terms and provisions thereof, and hereby further consents and agrees that from and after this date, the provisions of the Declaration, as amended by the Amendment, shall be superior to the rights created in the Deed of Trust, such that in the event of a foreclosure of the Deed of Trust or acquisition by Lender of the property described in the Deed of Trust, by deed in lieu of foreclosure, such foreclosure or acquisition shall not result in a termination of the Declaration or the rights, easements and obligations created thereby; provided, however, that nothing set forth above shall subordinate the Deed of Trust to the express provisions of the Declaration with respect to liens and priorities, including, without limitation, the provisions of Article V, Sections 9 and 10 and Article VI, Section 1 of the Declaration.

[Signature Appears on Following Page]

IN WITNESS WHEREOF, the undersigned has executed this Consent and Subordination as of the 10th day of November, 2022.

EQUITABLE FINANCIAL LIFE INSURANCE
COMPANY,
a New York corporation

By: _____
Name: Frank S. Linneen
Title: Investment Officer

STATE OF Georgia }
COUNTY OF Fulton } ss.

This instrument was ACKNOWLEDGED before me on November 10, 2022, by Frank S. Linneen, the Investment Officer of Equitable Financial Life Insurance Company, a New York corporation, on behalf of said corporation.

WITNESS my hand and official seal.

Rene Jabbary
Notary Public State of Georgia
Rene Jabbary
Printed Name of Notary Public

(Affix Notary Seal)

My Commission Expires: 11-6-26

RENE JABBARY
NOTARY PUBLIC
Cobb County
State of Georgia
My Comm. Expires November 6, 2026