

NORTH CAROLINA

DEP Site No.: 104528

DEP Land Unit No.: 1183017

WAKE COUNTY

DEP Project No.: 104528-460629

OFFER TO PURCHASE AND CONTRACT

WHEREAS, pursuant to this Offer to Purchase and Contract (the "Agreement"), The Wake County Board of Education, a body corporate, ("Buyer") hereby agrees to purchase and Duke Energy Progress, LLC, a North Carolina Limited Liability Company ("Seller"), hereby agrees to convey a portion of a parcel of land, totaling 71.0 acres more or less, located on the southern side of Woods Creek Road, east of its intersection of Friendship Road, Buckhorn Township, Wake County, North Carolina, together with, all right, title and interest which Seller may have in all creeks, streams, rights-of-way (excepting the Transmission Easement as defined and described in Paragraph 2 hereof, and all related rights under such Transmission Easement that will be reserved and retained by Seller in accordance with this Agreement), roads, streets and ways bounding said property (the "Property"). The Property is further identified by a legal description shown in Exhibit "A", and upon Maps shown on Exhibits "B" and "C". Exhibit "A", "B" and "C" are attached hereto and made a part of this Agreement, with the exact location and acreage of the Property to be determined by a formal boundary survey to be obtained by Buyer, at Buyer's cost, and subject to the mutual approval of the parties. The Property is more particularly described as all or a ± 71.0 acre portion of the parcel having Wake County PIN 0629-64-9092, Wake County REID 0110325, and street address of _____ Woods Creek Road, Apex, NC 27539.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein contained and the earnest money deposit set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged and confessed, the parties hereto agree to the following terms and conditions:

1. PURCHASE PRICE: The purchase price is Two Million Six Hundred Twenty Seven Thousand Five Hundred and no/100 Dollars (\$2,627,500) Dollars (± 71.0 acres at \$37,007 per acre) to be based upon the Survey (as defined below and referred to in Paragraph 3.C.1), and shall be paid by Buyer to Seller as follows:
 - A. \$10,000.00 in earnest money (the "Deposit") shall be paid by check to Boxley, Bolton, Garber & Haywood, L.L.P., Attorneys at Law (the "Escrow Agent"), with the delivery of this contract, to be held in trust until the sale is closed, at which time it will be credited to Buyer, applied to payment of the purchase price and disbursed to Seller at closing, or until this Agreement is otherwise terminated and it is disbursed in accordance with the terms of this Agreement.
 - B. Buyer and Seller acknowledge that the "Property" to be purchased includes 71.0 acres of land more or less. The exact location and acreage shall be determined by a formal boundary survey to be obtained and provided by Buyer, at Buyer's cost ("Survey"). The Survey shall be subject to the mutual approval of Seller and Buyer. Should the Survey approved by the parties and referred to in Paragraph 3.C.1 determine that the total gross acreage of the Property is different than 71.0 acres, Buyer and Seller agree to adjust the purchase price by an amount equal to \$37,007 per acre times the amount of the gross acreage of the Property as shown on the approved Survey.
 - C. The balance of the purchase price, in cash at closing.
2. SELLER'S RESERVED TRANSMISSION EASEMENT: The Property shall not include any right, title, or interest whatsoever in or to Seller's lines, facilities, fixtures, equipment, and/or other personal property now located upon the Property or as the same may hereafter be located upon the Property and that shall remain on the Property after the closing pursuant to the terms and conditions of the Transmission Easement (as is hereinafter defined) that will be reserved by Seller in accordance with this Agreement. Subject to the terms and conditions of this Agreement, Seller agrees to convey to Buyer,

and Buyer agrees to accept from Seller, title to the Property by Special Warranty Deed (the "Special Warranty Deed" or "Deed"), subject to the Permitted Encumbrances (defined in Paragraph 3.G hereof) and reserving unto Seller, its successors and assigns a transmission easement for Seller's existing and future electrical transmission facilities located within a two hundred sixty (260) foot wide portion of the Property near U.S. Highway No. 1 and Friendship Road (N.C.S.R. 1149) (the "Transmission Easement"). The language for reserving the Transmission Easement in the Deed shall be in substantially the same form as set forth on Exhibit "D-1" attached hereto and incorporated herein by reference. The area of the reserved Transmission Easement shall extend 67.5 feet on either side of the centerline of Seller's transmission facilities existing at the Property as of the execution date of this Agreement (for a total right of way width of 135 feet), plus an additional 125-foot wide right of way strip that adjoins the southern edge of the aforesaid 135-foot wide right of way strip and runs parallel therewith (for a combined total right of way width of 260 feet). The approximate location of the reserved Transmission Easement is depicted on Exhibit "D-2" attached hereto and incorporated herein by reference. The Survey shall include a metes and bounds legal description of the Transmission Easement area(s) or Right-of-Way Strip(s), reasonably acceptable to Seller and Buyer, which will be reserved by the Seller in the Deed. The rights, privileges, and easements reserved unto Seller shall include full, unrestricted, and uninterrupted access at all times for Seller, its employees, agents, and contractors to said Transmission Easement area(s) for ingress, egress, and regress in the conduct of Seller's business. After this Agreement is fully executed through the closing, Seller may exercise, as deemed necessary and desirable by Seller and without the Buyer's consent, any and all rights, privileges, and easements contemplated by the Transmission Easement to be reserved in the Deed.

3. CONDITIONS: The obligation of Buyer to purchase the Property is subject to the satisfaction at or prior to closing of the following conditions:
 - A. The Wake County Board of Education must approve all terms and conditions of this Agreement.
 - B. The Wake County Board of Commissioners must, prior to closing disburse to Buyer sufficient funds to pay the full balance of the purchase price for the Property.
 - C. Within one hundred eighty (180) days from the date upon which the Wake County Board of Education approved this Offer to Purchase and Contract ("Due Diligence Period"), Buyer must be able to obtain, at its expense, the following:
 - (1) The Survey of the Property, acceptable to Seller and Buyer by a registered land surveyor and a legal description that conforms to the Survey.
 - (2) A determination that there will be no adverse effect to the intended use of the Property due to the existence of rock or other unsuitable soil conditions;
 - (3) An environmental assessment of the Property to determine the existence of conditions that may be governed by Federal, State, or Local Environmental Laws (as hereafter defined in Paragraph 3.D.3), including without limitation, a Phase I Environmental Site Assessment of the Property prepared at Buyer's expense for Seller and Buyer. Buyer shall promptly deliver to Seller a copy of such Phase I Environmental Site Assessment, any Phase II testing report, and other environmental assessment reports when the same become available, at no expense to Seller. The results of the Buyer's tests and investigations shall not be made available or disclosed to any third party until a copy has been provided to Seller. Unless this Agreement is sooner terminated in accordance with its terms, Seller and Buyer acknowledge and agree that the final Phase I Environmental Site Assessment prepared for Seller and Buyer will be included with Seller's filing with the N.C. Utilities Commission requesting approval of the sale of the Property pursuant to Paragraph 3.L hereof. Buyer shall not, however, conduct any Phase II testing or investigation at the Property, including but not limited to soil, groundwater, surface water,

or other surface or subsurface sampling or testing on, at or below the Property without first obtaining the Seller's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Prior to initiating any such Phase II environmental testing, Buyer shall notify Seller of the proposed dates of any such testing, the name of Buyer's contractors or agents conducting such testing, and a description of the scope and parameters of the testing. Buyer shall permit Seller to accompany Buyer or Buyer's contractors or agents on site during the testing to observe the activities undertaken. Seller shall determine, in Seller's reasonable discretion, the reportability or disclosure of any and all results of such Phase II testing to any governmental (or quasi-governmental) agency having jurisdiction over the Property with respect to Environmental Laws or other third party. Seller shall determine, in Seller's sole discretion, the appropriate manner of addressing any contamination discovered as a result of such testing. Upon Buyer or any of Buyer's contractors or agents obtaining knowledge of any actual or suspected environmental contamination on, in or below the Property, Buyer or Buyer's contractors or agents shall immediately notify Seller of such contamination and immediately provide Seller with copies of any reports, data, laboratory results, notes, or other information of any kind whatsoever (including any and all drafts and final work products) that indicate any such actual or suspected environmental contamination of the Property. All such information shall be in writing and delivered to Seller by means of electronic mail (with follow-up by U.S. Mail or hand-delivery). Buyer's failure to identify conditions through such inspections shall not relieve Seller of its responsibility for any violation of Environmental Laws affecting the Property caused by Seller (or Seller's employees, agents, and contractors) as set forth in Section 3.D.5 hereof.

- (4) An appraisal by a MAI appraiser, acceptable to Seller and Buyer, that reflects the fair market value of the Property as equal to or exceeding the purchase price (the "Property Appraisal"). If the Property does not equal or exceed the purchase price but sufficiently supports the price so as to be acceptable to the Board of Education and the Board of Commissioners for approval of the contract and funding, this condition will be deemed satisfied.
- (5) Approval of the Wake County Board of Commissioners of funding of Buyer's purchase of the Property under N.C. G.S. Section 115C-426.
- (6) Approval from the Town of Apex, Town of Holly Springs, Wake County and/or the North Carolina Department of Transportation to construct a suitable means of ingress and egress from the Property to Woods Creek Road.
- (7) Approval from the Town of Apex, Town of Holly Springs, Wake County and/or the North Carolina Department of Environmental Quality or such other governmental agencies as are necessary to construct a suitable sewer system to support a, elementary school upon the subject property, or connect to public sewer service that is otherwise available with sufficient capacity for Buyer's purposes.

D. Seller agrees to cooperate in good faith with Buyer in Buyer's testing and investigation of the Property for an environmental assessment, subject to and in accordance with the terms and conditions set forth in this Agreement. Seller hereby makes the following representations and warranties to Buyer as to environmental matters concerning the Property:

- (1) To the best of Seller's knowledge, Seller has not received any notice from the N.C. Department of Environmental Quality ("DEQ"), the U.S. Environmental Protection Agency, or any local governmental authority regarding any violation of Environmental

Laws by Seller affecting the Property. If Seller receives notice or obtains knowledge of any such violation prior to closing, Seller shall promptly notify Buyer.

- (2) To the best of Seller's knowledge, during Seller's ownership of the Property, there has not been a discharge or release of Hazardous Material (as hereinafter defined) in violation of Environmental Laws caused by Seller at the Property.
- (3) To the best of Seller's knowledge, no portion of the Property has been used by Seller during Seller's ownership of the Property for the production, storage, or disposal of Hazardous Material.

"Hazardous Material" as used in this Agreement means any hazardous or toxic substance, material, waste or similar term which is regulated by local governmental authorities, the State of North Carolina and/or the Federal Government including, but not limited to, any material, substance, waste, or similar term which is:

- (a) defined as Hazardous Material under the laws of the State of North Carolina, as amended from time to time;
- (b) defined as a hazardous substance under Section 311 of the Federal Water Pollution Control Act (33 U.S.C. Section 1317), as amended from time to time;
- (c) defined as a hazardous waste under Section 1004 of the Federal Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et. seq.), as amended from time to time;
- (d) defined as a hazardous waste substance under Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et. seq.), as amended from time to time;
- (e) defined as hazardous waste or toxic substance, waste, material or similar term in any rules and regulations, as amended from time to time, which are adopted by the Environmental Protection Agency and/or the Occupational Safety and Health Administration, the State of North Carolina, or local governmental authorities; or
- (f) defined as hazardous or toxic waste, substance, material or similar term in any statute, regulation, rule, or law enacted or adopted at any time after the date of this Agreement by local governmental authorities, the State of North Carolina, and/or the Federal Government.

"Environmental Laws" as used in this Agreement means any and all federal, North Carolina, and local laws, statutes, rules, regulations, and ordinances concerning pollution and protection of public health and the environment, including without limitation, the Clean Air Act, the Comprehensive Environmental Response, Compensation, and Liability Act as amended by the Superfund Amendments and Reauthorization Act of 1986, Resource Conservation and Recovery Act, Toxic Substances Control Act, Clean Water Act, Oil Pollution Act, Safe Drinking Water Act, Hazardous Materials Transportation Act, and any State of North Carolina or local laws implementing or analogous to the foregoing federal laws, and including without limitation, all those relating to the presence, use, production, generation, handling, transportation, treatment, storage, monitoring, disposal, distribution, labeling, testing, processing, discharge, or release of any Hazardous Material, each as amended and as now or hereafter in effect.

- (4) To the best of Seller's knowledge, Seller has complied with all applicable Environmental Laws affecting the Property during Seller's ownership of the Property.

- (5) Seller shall be responsible for any violation of Environmental Laws affecting the Property caused by the Seller (or Seller's employees, agents, or contractors). Buyer is relieved of any liabilities, claims, penalties, fines, costs, or charges that may occur as a result of any action against the Property due to any violation of Environmental Laws caused by Seller (or Seller's employees, agents, or contractors) affecting the Property.

For purposes of the foregoing representations of Seller in this Paragraph 3.D and other terms and conditions of this Agreement, the phrase "to Seller's knowledge", "to the best of Seller's knowledge," or words of similar import shall mean the actual knowledge of Keith McGuinness, Seller's Transaction Manager Real Estate after due inquiry and reasonable investigation concerning the Property. Buyer's obligation to purchase the subject Property is expressly conditioned upon the foregoing representations of Seller set forth in Paragraph 3.D.1 – 4 being true and accurate in all material respects on the date hereof and on the closing date; and these representations and warranties shall be deemed extended through the closing date unless Seller advises Buyer in writing of any changes prior to closing. Seller's representations and warranties under this Paragraph 3.D shall survive the closing and delivery of the Deed for a period of six (6) months after the date the Deed is recorded.

- E. If there are any restrictions, easements, or governmental regulations other than zoning regulations that would prevent the reasonable use of the Property for public school and administrative purposes, then Buyer may cancel this Agreement by providing written notice to Seller before the expiration of the Due Diligence Period. In the event such notice is given, the Deposit shall be returned to Buyer; or, in the alternative, Buyer may waive the objectionable conditions and close pursuant to the terms of this Agreement.
- F. Except for the Seller's Utility Mortgage (as defined and addressed in Paragraph 3.G.8 hereof), Seller shall satisfy (or obtain the release or cancellation of) at or prior to closing any monetary liens or judgments against Seller affecting the Property and placed upon the Property. Any liens and charges resulting from the actions of Buyer or Buyer's agents, employees, or other representatives are the responsibility of Buyer and are excluded herefrom.
- G. Title must be delivered at closing by Special Warranty Deed and must be fee simple marketable and insurable title, subject to the "Permitted Encumbrances" defined and set forth below and reserving unto Seller the Transmission Easement in accordance with the terms of this Agreement. Notwithstanding anything to the contrary herein, if any legal description as set forth in the approved Survey includes real property that is not within the bounds of the property description(s) contained in the deed(s) by which Seller obtained title to the Property, Seller shall be entitled to limit its deed warranties to the areas described and contained in the deed(s) by which Seller obtained title to the Property; provided however, upon Buyer's request, Seller also shall provide a quitclaim deed to Buyer at closing containing the legal description from the approved Survey.

Unless the Buyer terminates this Agreement in accordance with its terms, Buyer shall be deemed to have approved and have agreed to take title to the Property at closing subject to the following (collectively the "Permitted Encumbrances"):

- (1) All exceptions to title that Buyer has approved or is deemed to have approved pursuant to Paragraph 9 hereof;
- (2) Ad valorem taxes for the year in which closing occurs, which shall be paid by Seller as provided in Paragraph 6A hereof;
- (3) All liens resulting from the performance of any inspections, work, or activities on the Property by or on behalf of Buyer or Buyer's employees, agents, contractors, or representatives;
- (4) Any and all utility easements and rights of way of record affecting the Property;
- (5) Any and all public transportation, road, and railroad easements and/or rights of way of record affecting the Property;
- (6) Rights of others in and to the continued uninterrupted flow of any creeks or streams crossing the Property;
- (7) All matters that would be revealed by a current and accurate survey of the Property or the approved Survey;
- (8) Seller's Mortgage and Deed of Trust, dated May 1, 1940, and recorded in Book 845, Page 1, Wake County Registry, as supplemented (collectively the "Utility Mortgage"). Seller will use commercially reasonable best efforts to obtain a release for said Property from said lien after the closing. Seller shall apply for, obtain, and record in the Wake County Registry, a release of the Property from the Utility Mortgage within one (1) year after the closing date. Seller shall indemnify and save Buyer harmless from actual damages, costs, and expenses incurred by the Buyer resulting solely from Seller's failure to obtain such release of the Property from the Utility Mortgage within one (1) year after the closing date. Seller's obligations set forth in this Paragraph 3.G.8 hereof shall survive the closing and delivery of the Deed; and
- (9) The Property currently is part of, and encumbered by, the North Carolina Wildlife Resource Commission ("NCWRC") Gamelands Program, which authorizes and allows the public to hunt on the Property. Seller agrees that within thirty (30) days of execution of this Agreement, Seller shall submit a written (or email) request to the NCWRC for removal of the Property and additional adjacent acreage as depicted on Exhibit "F" attached hereto and incorporated herein by reference from the NCWRC Gamelands Program (the "Seller's NCWRC Notification"). Buyer acknowledges and understands that submittal of the Seller's NCWRC Notification to the NCWRC does not immediately remove the Property from the NCWRC Gamelands Program and that the Property shall remain encumbered by the NCWRC Gamelands Program until such time as the NCWRC publishes its next updated map of lands comprising the NCWRC Gamelands Program, which will show that the Property and additional adjacent acreage as depicted on Exhibit "F" has been removed from the NCWRC Gamelands Program.

H. The Property must have legal access to a public right-of-way.

- I. Should Buyer elect for any reason not to proceed with the acquisition of the Property prior to the expiration of the Due Diligence Period, Buyer shall notify Seller and the Escrow Agent that it has elected to terminate the Agreement. If requested by the Escrow Agent, Seller shall confirm in writing that the Agreement has been terminated in accordance with its terms, that the Deposit shall be returned to Buyer, and that neither Seller nor Buyer has any further rights, duties and obligations one to the other except as specifically provided in this Agreement. Within five days of the notification of Seller of Buyer's election to

terminate, Buyer will provide to Seller copies of all due diligence studies procured in the Buyer's investigation of the Property and will advise its consultants that they are released to discuss their findings with Seller. In the event no such termination notice is given by Buyer prior to the expiration of the Due Diligence Period, then the Deposit shall become non-refundable (except as otherwise provided by this Agreement), Buyer shall be deemed to have accepted the Property in its "AS IS" condition (excepting Seller's environmental representations and warranties as set forth in Section 3.D hereof) and closing shall occur on the closing date, subject to the terms and conditions of this Agreement.

- J. Buyer shall be responsible for preparation, governmental approvals, and recordation of the Survey and any other such surveys or plats as are necessary to effect subdivision of the Property from the parent tract described hereinabove as necessary to support its lawful conveyance. Seller shall assist the Buyer in the Buyer's recombination or subdivision mapping efforts to such extent as the Buyer may reasonably request, but the Seller shall have no duty to incur any expense in such efforts.
- K. Buyer shall provide, at Buyer's expense, a recordable plat approved by the applicable governmental authorities for the purpose of establishing the Property as a subdivided tract, including such limited topographical work as necessary to confirm elevation contour lines or other data as may be necessary for North Carolina Utilities Commission review and approval of the sale. Seller shall retain the right to review and approve the plat, which approval shall not be unreasonably withheld, conditioned, or delayed. Any such plat may be one and the same as the Survey. Additional notes and data for addition to the plat as may be necessary to support Seller's request for North Carolina Utilities Commission approval shall be subject to the approval of Seller and Buyer. The cost of plat and/or Survey recordation shall be the responsibility of Buyer.
- L. Buyer expressly understands, acknowledges and agrees that the consummation of any definitive sale of the Property and any definitive grant and conveyance of the Property by Seller to the Buyer is expressly conditioned upon and subject to Seller having received (a) all consents, authorizations, and approvals that Seller determines are necessary to be obtained from any federal, state, and/or local governmental agencies or authorities, including without limitation, approval of the North Carolina Utilities Commission and Public Service Commission of South Carolina's approval pursuant to S.C. Code Ann. 58-27-1300 (collectively the "Regulatory Authorizations"); and (b) written notice from the United States Environmental Protection Agency that the proposed sale qualifies as an "arms-length" transaction (the "Arms-Length Designation") to the extent applicable. Seller shall use commercially reasonable efforts to obtain all such Regulatory Authorizations and the Arms-Length Designation to the extent any of the foregoing are applicable, in a timely manner, and shall initiate the process for requesting approval of the sale from the North Carolina Public Utilities Commission and Public Service Commission of South Carolina within fifteen (15) business days after Seller's receipt of the Property Appraisal, Phase I Environmental Site Assessment, and Survey, all as approved by the parties in accordance with this Agreement. Seller's receipt of such Regulatory Authorizations and/or Arms-Length Designation (to the extent applicable) and notification of same to Buyer, shall be a condition to be satisfied within the Due Diligence Period. Notwithstanding the foregoing, Seller shall have no liability whatsoever to Buyer and/or any prospective Buyer of the Property, and the Buyer agrees to hold the Seller harmless from and against any and all claims, costs, losses, damages, and/or expenses howsoever arising out of or in connection with the failure or inability of Seller to obtain such Regulatory Authorizations and/or Arms-Length Designation in a timely manner or at all. If the Regulatory Authorizations and/or Arms-Length Designation are not obtained for any reason, then Seller may terminate this Agreement upon written notice to Buyer. In the event this Agreement is terminated by Seller pursuant to this Paragraph 3.L, this Agreement shall be deemed null and void and have no further force and effect (except as to those matters that by their very nature

survive, or that expressly survive, the termination of this Agreement), each party shall be relieved of its respective obligations hereunder, and the Deposit shall be returned to the Buyer.

4. **FAILURE OF CONDITIONS/DEFAULT:** If any of the Buyer's closing conditions set forth in Paragraph 3 of this Agreement are not met, Buyer has the option to waive the satisfaction of any unsatisfied conditions. If Seller shall be in material breach of or material default under this Agreement beyond any applicable cure period, Buyer shall recover the Deposit without prejudice to any other remedies it may have at law or equity for the Seller's breach or default. If Buyer shall be in material breach of or material default under this Agreement beyond any applicable cure period, then Seller shall be entitled to the Deposit without prejudice to any other remedies it may have at law or equity for the Buyer's breach or default. In the event of default by either party hereunder, the non-defaulting party shall deliver notice to the other of such default and provide ten (10) days in which to cure such default.
5. **SELLER REPRESENTATIONS AND WARRANTIES:** Seller makes the following representations and warranties to and for the benefit of Buyer which shall be true on the date of closing as though such representations and warranties were made at such time and shall survive closing and delivery of the Deed for a period of six (6) months after the date the Deed is recorded:
 - A. **ASSESSMENTS:** To Seller's knowledge, there are no confirmed special assessments for which Seller is liable as to sidewalk, paving, sewer, water, or other improvements on the Property. If Seller receives notice or obtains knowledge of any such confirmed special assessments, Seller shall promptly notify Buyer. Any encumbrances and assessments resulting from the actions of Buyer or Buyer's agents, employees, or other representatives are the responsibility of Buyer and are excluded herefrom.
 - B. **CLAIMS AND SUITS:** There are no leases of the Property, or any portion thereof, that will exist at closing that have been granted, conveyed or entered into by Seller. There are no persons (other than Seller) or entities in possession of any portion of the Property as lessees or tenants at sufferance. To the best of Seller's knowledge, there are no claims, demands, unfiled liens, actions, suits, or legal proceedings of any kind, legal or equitable, to which Seller is a party affecting the Property or prohibiting the use of the Property for public school purposes. If Seller receives notice or obtains knowledge of any such actions, suits, or legal proceedings, Seller shall promptly notify Buyer.
 - C. **COMPLIANCE WITH APPLICABLE LAWS OTHER THAN ENVIRONMENTAL LAWS:** To the best of Seller's knowledge, Seller has complied with all applicable laws, ordinances, regulations, statutes, rules, and regulations affecting the Property during Seller's ownership of the Property. The foregoing representation of Seller excludes compliance with Environmental Laws, which is separately addressed in Paragraph 3.D.4 hereof.
 - D. **FOREIGN PERSON:** Seller is not a "foreign persons" as defined in the Foreign Investor Reporting and Property Tax Act and shall provide an affidavit at least ten (10) days prior to closing in a form satisfactory to Seller and Buyer to such effect.
6. **PRORATIONS AND ADJUSTMENTS:** Unless otherwise provided, the following items shall be prorated and adjusted between the parties or paid at closing:
 - A. Ad valorem real estate taxes for the year of closing with respect to the Property and any "roll back" taxes affecting the Property shall be the responsibility of Seller and paid by Seller when such taxes become due and payable, which may be after the closing. Seller's obligation set forth in this Paragraph 5.A shall survive the closing and delivery of the Deed.

- B. All late listing penalties, if any, shall be paid by Seller.
 - C. Rents, if any, for the Property shall be retained by Seller, calculated to the date of closing.
 - D. All crop allotments, if any, shall be retained by the Seller.
 - E. Buyer by its execution hereof confirms that i) North Carolina licensed real estate broker Clyde A. Douglass III, ("Douglass") presented the property to Buyer for its consideration and was the procuring cause of sale. As an accommodation and concession, Buyer agrees to compensate Douglass in the amount of two and one half per cent (2.50%) of the purchase price at closing. Buyer agrees to indemnify and hold Seller harmless against any real estate commission claimed by any other parties allegedly representing Buyer in this transaction. Seller by its execution hereof states that Seller has not been represented by any other real estate broker in this transaction.
7. LABOR AND MATERIAL: Seller shall furnish at closing an affidavit and indemnification agreement in a form satisfactory to Seller and Buyer (and utilizing NCLTA Form No. 1) at least ten (10) days prior to closing showing that all charges for labor or materials, if any, furnished to the Property within 120 days before the date of closing have been paid and agreeing to indemnify Buyer against all loss from any claim arising therefrom.
 8. CLOSING EXPENSES: Seller shall pay for the revenue stamps required by law. Buyer shall pay and be responsible for the following costs and expenses: the preparation of the Deed and any affidavits or documents required by this Agreement or that are reasonably requested by counsels for Seller or Buyer to consummate the closing; all escrow and wiring fees; recording fees, including for the Deed and Survey; both the Buyer's and Seller's respective attorney's fees with respect to this Agreement and the transaction contemplated hereunder;; cost of the Phase I Environmental Site Assessment and Property Appraisal pursuant to Paragraphs 3.C.3 and 3.C.4, respectively hereof; cost of any title insurance policy issued in connection with this transaction, whether pursuant to a title commitment or otherwise; fees and costs incurred for the preparation, approval, and recording of the Survey (and any other subdivision or recombination survey or plat associated with the transaction contemplated hereunder); and fees and disbursements of Buyer's employees, agents, contractors, consultants, surveyors, engineers, and others engaged by Buyer in connection with Buyer's inspection and investigation of the Property and the transaction contemplated hereunder.
 9. EVIDENCE OF TITLE AND TITLE OBJECTIONS: Seller shall deliver to Buyer within 30 days after the execution of this offer by all parties copies of the title information in Seller's real estate file, which includes Seller's vesting deed for the Property recorded in Book 1961, Page 457, Wake County Registry; attorney's preliminary and final opinions on title that were obtained in connection with CP&L's (Seller's predecessor) acquisition of the Property, CP&L Drawing No. L-D-3008 dated August 1972 concerning the Property, certain option and other closing documents in connection with such Property acquisition by CP&L; and documentation regarding the sale and removal of an old tobacco barn and dwelling from the Property (or adjoining parent parcel) in 1979. The furnishing of any such title, survey, and other documents by Seller to Buyer pursuant to this Agreement shall not be interpreted in any manner as a representation or warranty of any type or kind by Seller, any agent of Seller, or any officer, director, employee, or counsel of Seller or of any person or entity related in any way to Seller.

Buyer shall have until the expiration of the Due Diligence Period by which to provide written notice to Seller of any matters of title or survey that are not reasonably satisfactory to Buyer and Buyer's counsel other than the Permitted Encumbrances, which notice must specify the reason such matter(s) are not satisfactory (the "Objection Notice"). Buyer shall provide Seller with a copy of Buyer's preliminary title commitment with its Objection Notice. Seller shall respond to Buyer within ten (10) days of Seller's receipt of an Objection Notice and inform Buyer whether or not Seller will

agree to cure the objections set forth in the Buyer's Objection Notice. Seller shall have no obligation whatsoever to expend or agree to expend any funds, to undertake or agree to undertake any obligations, or otherwise to cure or agree to cure any title objections; and Seller shall not be deemed to have any obligation to cure, unless Seller expressly undertakes such an obligation by a written notice to or written agreement with Buyer given or entered into after Seller's receipt of an Objection Notice and reciting that it is in response to an Objection Notice. Buyer's sole right with respect to any matter of title (excluding the Permitted Encumbrances) to which Buyer objects in an Objection Notice and Seller either has not responded or has notified Buyer of its unwillingness to cure, shall be to elect to terminate this Agreement by written notice to Seller or accept title subject to the exception(s) to which Buyer objected without reduction in the purchase price; and in the event such timely notice of termination is given, then the Deposit shall be returned to Buyer and this Agreement shall be null and void and have no further force or effect, except as to those matters that by their very nature survive, or that expressly survive, the expiration or termination of this Agreement. All matters with respect to which Buyer fails to give an Objection Notice on or before the expiration of the Due Diligence Period or with respect to which a timely Objection Notice is given but Seller fails to undertake an express obligation to cure as provided above and Buyer does not elect to terminate this Agreement, shall be deemed to be approved by Buyer as a "Permitted Encumbrance," as provided in Paragraph 3.G hereof (subject, however, to Buyer's termination right as provided in Paragraph 3.I hereof).

10. **ASSIGNMENT:** The Seller or Buyer may not assign this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld, conditioned, or delayed; provided however, and notwithstanding the foregoing, Buyer shall have the right to assign this Offer to Purchase and Contract to Wake County, or take title to the Property at closing in a governmental entity affiliated with Buyer by providing notice to Seller but without necessity of written agreement or prior consent by Seller. Any permitted assignee shall be deemed to have made any and all representations and warranties made by its assignor hereunder, as if the assignee were the original signatory hereto.
11. **BINDING EFFECT:** This Agreement shall be binding and shall inure to the benefit of the parties and their successors and assigns.
12. **SURVIVAL:** Except as otherwise set forth in this Agreement, any provision of this Agreement which by its nature and effect is required to be observed, kept or performed after the closing shall survive the closing and remain binding upon and for the benefit of the parties until fully observed, kept or performed.
13. **SELLER'S AUTHORITY/RIGHT TO TERMINATE:** Seller warrants and represents that it has full and complete power and authority to enter into this Agreement in accordance with all the provisions contained herein. Seller may terminate this Agreement (and in such event the Escrow Agent shall return the Deposit to the Buyer) if Seller is not satisfied, in its reasonable discretion, with the results of any environmental assessment or investigation of the Property (whether conducted by or on behalf of either Seller or Buyer). Seller shall be entitled to exercise its termination option until the later of: (i) the expiration date of the Due Diligence Period; or (ii) ten (10) business days after Seller's receipt of Buyer's environmental assessment report(s). If Seller's termination notice is timely given, neither party hereto shall thereafter have any further rights or liability hereunder, except as to those matters that by their very nature survive, or that expressly survive, the expiration or termination of this Agreement.
14. **RIGHTS OF BUYER PRIOR TO CLOSING, OBLIGATIONS:** Buyer, its agents, employees or other representatives shall have the right during the Due Diligence Period and through closing to go upon the Property at their own and sole risk for the purpose of making such surveys, engineering, topographical, geological, and other tests and measurements including, but not limited to, soil tests, percolation tests, and subsoil tests as Buyer deems necessary or advisable, but subject to the terms, conditions, and limitations set forth in Paragraph 3.C.3 hereof. Buyer shall

repair damages to the Property caused by Buyer or Buyer's employees, agents, and contractors; provided however, Buyer shall not have responsibility to repair minor and incidental damages to the vegetation and surface of the Property (e.g., minor clearing for installation of soil borings, limited cutting of brush, limbs, etc. for equipment access) that are caused by reasonably necessary actions performed in compliance with applicable laws (including without limitation Environmental Laws) for completing the Survey, testing including geotechnical studies, and Buyer's other due diligence activities permitted under this Agreement. Subject to the foregoing sentence, Buyer agrees to return the Property to as near its original condition as is possible after completion of tests the Buyer or its agents conduct on the Property. Buyer indemnifies and holds Seller harmless from any loss, cost (including without limitation reasonable attorneys' fees), damage, expense, suit, liability, and claim resulting from Buyer's activities on the Property for purposes contained herein, including any lien (or claim of lien) placed upon the Property that may be suffered or incurred by Seller arising out of or as a result of Buyer's exercise of rights under this Paragraph 14 or Paragraph 3.C.3 hereof. Buyer, for and on behalf of and Buyer's agents, employees, and representatives entering the Property, shall maintain in effect comprehensive general liability insurance with bodily injury and property damage coverage of at least One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) in the aggregate, sufficient in all respects to provide and ensure the performance of the indemnity obligations herein contained. Upon Seller's request, Buyer shall provide Seller with certificate(s) of insurance evidencing Buyer's compliance with the insurance requirements set forth herein. The indemnity of Buyer set forth in this Paragraph 14 shall survive closing, delivery of the Deed, and any termination of this Agreement.

15. **ADDITIONAL COVENANTS:** These covenants shall survive closing and delivery of the Deed:

A. Future Electrical Service and Distribution Easement to Serve the Property: Seller and Buyer agree that Seller shall be the electrical service provider for the Property and all improvements thereon prior to and after the closing. At such time as Buyer undertakes development of the Property requiring the need for Seller's construction, operation, and maintenance of electrical distribution and communication facilities on, over, under and across the Property or portions thereof, the Buyer shall convey to Seller a distribution easement (the "Distribution Easement"). It is anticipated that the future public school site electrical feeds will include two sources for redundancy for optimum service consistency, and that all distribution facilities will be installed at locations mutually agreeable to the parties. The terms and language for conveyance of the Distribution Easement shall be in substantially the same form previously utilized by the parties as set forth on Exhibit "E" attached hereto as incorporated by reference, together with any other changes mutually agreed upon by the parties.

B. Future Sewer and Water Easement(s). It is anticipated that Buyer's development of the Property will include location of a sewer pump station in the southern portion of the Property, and extension of a force main line therefrom to and across Woods Creek Road will be required. In the event one or more easements are needed for extension of water and/or sewer service to the Property that crosses the remainder of Seller's property located above the 260-foot elevation contour (the "Additional Easement" or "Additional Easements"), Seller will cooperate with Buyer and negotiate in good faith to identify and determine if there are mutually agreeable route(s), width(s), and location(s) of such Additional Easements affecting such remainder of Seller's property. In the event the parties can reach agreement on such route(s), width(s), location(s), and other terms for any such Additional Easements, then each Additional Easement that is conveyed by Seller to Buyer shall be subject to the prior approval of the North Carolina Utilities Commission and shall require payment of additional monetary compensation by Buyer to Seller in the amount of the fair market value of such Additional Easement based on a current appraisal (meeting Seller's requirements). Buyer shall pay and be responsible for all costs associated with any such Additional Easements, including without limitation, the cost of an appraisal(s) to determine the fair market value of each Additional Easement, cost of preparing a survey of the easement area providing a metes and bounds legal description of each Additional Easement, cost of any design and

construction plans associated with each Additional Easement, and cost of an environmental assessment of the easement area of each Additional Easement.

C. Buyer's Representations and Warranties/AS IS SALE. Buyer hereby makes the following representations and warranties to Seller, which shall also be true as of the closing date:

- (1) Buyer has the full right and authority to enter into this Agreement and to consummate the transaction contemplated by this Agreement. This Agreement and all documents required hereby to be executed by Buyer are and shall be valid, legally binding obligations of Buyer, enforceable against Buyer in accordance with their terms.
- (2) Buyer is purchasing the Property in its "AS IS" condition with no warranties by Seller as to access, zoning, merchantability, suitability, habitability or fitness for any particular use, except as otherwise set forth herein (and excepting Seller's environmental representations and warranties as set forth in Section 3.D hereof).

D. Materialmen Liens. If any mechanic's lien, materialmen's lien, contractor's lien or other order for the payment of money shall be filed against the Property by reason or arising out of any labor or material furnished or alleged to have been furnished to or for Buyer or under any contract relating thereto in connection herewith, then within thirty (30) days after the filing of any such lien, Buyer shall cause the same to be canceled and discharged of record by bond or otherwise at Buyer's expense. Buyer shall defend, at Buyer's sole cost and expense, any action, suit or proceeding which may be brought thereon or for the enforcement of any such lien or order. Buyer shall pay any damages and discharge any judgment entered thereon and shall defend, indemnify and hold harmless Seller from and against any claim or damage resulting therefrom. If Buyer fails to perform Buyer's obligations as set forth herein, then in addition to any other remedies available to Seller under this Agreement or otherwise, Seller may, at its option, discharge such lien, in which event Buyer shall pay to Seller a sum equal to the amount of the lien discharged plus reasonable attorneys' fees, expenses, and damages incurred by the Seller. The intent of this Paragraph 15.D is to protect the Seller and the Property from any lien rights which may attach to the Property as a result of any non-payment or alleged non-payment on the part of Buyer in connection with this Agreement. The Buyer's obligations and provisions of this Paragraph 15.D shall expressly survive the closing, delivery of the Deed, and any termination of this Agreement.

16. RISK OF LOSS: The risk of loss prior to closing, which shall include personal property, shall be upon the Seller.
17. POSSESSION: Exclusive possession of the Property free and clear of occupancy by all persons, firms or corporations, whether or not under claim of right or color of title, shall be delivered to Buyer at closing on the conditions required in this Offer to Purchase and Contract and subject to the Seller's rights reserved in the Deed and the Permitted Encumbrances.
18. CLOSING: The parties agree to execute any and all documents and papers necessary in connection with the closing and transfer of title to the Property within thirty (30) days after all conditions have been met or waived. All closing documents, including the settlement statement, shall be in a form approved by Buyer and Seller. Buyer and Seller shall collaborate to make a reasonable good faith effort to close on or before December 31, 2018. The Deed is to be made to The Wake County Board of Education, Facilities Building, 1551 Rock Quarry Road, Raleigh, North Carolina, 27610, Attention: Betty L. Parker, Real Estate Services Senior Director.
19. TIME IS OF THE ESSENCE: Time is of the essence with regard to the terms and conditions contained in this Offer to Purchase and Contract.

20. **EXTENSION:** Notwithstanding the foregoing, Buyer shall have the right to extend the Due Diligence Period by up to thirty (30) days by the provision of written notice prior to expiration of the Due Diligence Period to the Seller of its desire to extend if such additional time is necessary for the completion of due diligence studies, to obtain approvals from the Board of Commissioners, or such other agencies necessary to satisfaction of the conditions hereinabove described.
21. **COUNTERPARTS:** This offer shall become a binding contract when signed by both Buyer and Seller in two (2) counterparts with an executed counterpart being retained by each party.
22. **NOTICES:** All notices, requests and other communications hereunder shall be deemed to have been fully given, by either Party to the other, when made in writing and either a) deposited in the United States mail (sent certified, return receipt requested); b) personally delivered; c) transmitted by overnight courier for next business day delivery, d) by facsimile or e) by electronic mail but, in the case of electronic mail, only if followed by transmittal by overnight courier or hand for delivery on the next Business Day, to the addresses of Buyer and Seller set forth below or to such other addresses as the Parties may, from time to time, designate by written notice.

To Seller: Duke Energy Progress LLC
 Attention: Keith McGuinness, Transaction Manager
 550 South Tryon Street
 DEC 22A
 Charlotte, NC 28202
 Email: Keith.McGuinness@duke-energy.com

w/copy to: David W. Berry, Esq.
 Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP
 Wells Fargo Capitol Center
 150 Fayetteville Street
 Suite 2300
 Raleigh, North Carolina 27601
 (or P.O. Box 2611, Raleigh, NC 27602-2611)
 Email: dberry@smithlaw.com

To Buyer: Wake County Public School System
 Attn: Superintendent
 5625 Dillard Drive
 Cary, North Carolina 27518

w/copy to: Wake County Public School System
 Attn: Real Estate Services Senior Director
 1429 Rock Quarry Road, Suite 116
 Raleigh, North Carolina 27610
 Email: bparker@wcpss.net

& w/copy to: Kenneth C. Haywood, Esq.
 Boxley, Bolton, Garber & Haywood, LLP
 Post Office Drawer 1429
 Raleigh, North Carolina 27602
 Email: khaywood@bbghlaw.com

22. **MEMORANDUM OF CONTRACT:** The Buyer reserves the right to obtain upon request the execution by the parties of a Memorandum of Contract suitable for recordation in the Office of the Register of Deeds of Wake County. The Buyer shall pay all expenses for preparation and recordation of said Memorandum(s). This Agreement itself may not be recorded without the prior

written permission of Buyer and Seller. If Buyer records a memorandum of contract, Buyer shall furnish a notice of termination that Seller can record, at Buyer's cost, which notice shall be in form and substance reasonably satisfactory to Seller.


23. ENTIRE UNDERSTANDING/GOVERNING LAW: This Agreement constitutes the entire understanding between the parties. It may not be modified orally or in any manner except by agreement in writing that is signed by the parties hereto. This Agreement shall be construed and enforced in accordance with the laws and judicial decisions of the State of North Carolina.
24. TAX-DEFERRED EXCHANGE: In the event Buyer and Seller wish to effect a tax-deferred exchange or bargain sale transaction in connection with the conveyance of the Property, Buyer and Seller agree to cooperate in effecting such exchange, providing, however, that the exchanging party shall be responsible for all additional costs associated with such exchange, and providing further that the non-exchanging party shall not assume any additional liability with respect to such tax-deferred exchange or bargain sale. Seller and Buyer shall execute such additional documents, at no cost to the non-exchanging party, as shall be required to give effect to this provision, including the execution of Form 8283 to be attached to Seller's tax return.
25. ESCROW AGENT: The Escrow Agent receiving the Deposit and other funds is authorized and agrees by acceptance of them to deposit them promptly, hold same in escrow and, subject to clearance, disburse them in accordance with the terms and conditions of this Agreement. Failure of clearance of funds shall not excuse Buyer's performance. If in doubt as to Escrow Agent's duties or liabilities under the provisions of this Agreement, Escrow Agent may, at Escrow Agent's option, continue to hold the subject matter of the escrow until the parties mutually agree to its disbursement, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties or Escrow Agent may deposit with the clerk of the court having jurisdiction over the dispute. Upon notifying all parties concerned of such action, all liability on the part of Escrow Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. Any suit between Buyer and Seller where Escrow Agent is made a party because of acting as Escrow Agent hereunder, or in any suit wherein Escrow Agent interpleads the subject matter of the escrow, Escrow Agent shall recover reasonable attorney's fees and costs incurred with the fees and costs to be charged and assessed as court costs in favor of the prevailing parties. The parties agree that the Escrow Agent shall not be liable to any party or person for misdelivery to Buyer or Seller of items subject to this escrow, unless such misdelivery is due to the willful breach of this Agreement or the negligence of Escrow Agent. Any notice to or demand to Escrow Agent shall be deemed given only upon actual receipt of written notice sent via hand-delivery (receipt acknowledged), via overnight delivery by a nationally recognized overnight express service, or by certified U.S. Mail, return receipt requested, postage prepaid and addressed to: Kenneth C. Haywood, Esq., Boxley, Bolton, Garber & Haywood, LLP, Post Office Drawer 1429, Raleigh, North Carolina 27602 (or 227 West Martin Street, Raleigh, North Carolina 27602).

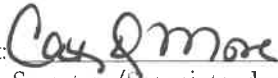
[Remainder of Page Intentionally Left Blank. Signatures Appear on Following Page.]

IN WITNESS THEREOF, the parties have hereunto set their hands and seal the day and year indicated below.

BUYER:

THE WAKE COUNTY BOARD OF EDUCATION

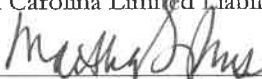
By: 
Monika Johnson-Hostler, Board Chair

Attest: 
Secretary/Superintendent

Date: 9/4/18

SELLER:

DUKE ENERGY PROGRESS, LLC,
A North Carolina Limited Liability Company

By: 

Name: Martha S. Purser
Director Real Estate Strategy and Transaction

Title: _____

Date: 8/29/2018

Exhibit "A"**Legal Description:**

The subject Property is located on the southern side of Woods Creek Road, east of its intersection of Friendship Road, Buckhorn Township, Wake County, North Carolina, together with, all right, title and interest which Seller may have in all creeks, streams, rights-of-way (excepting the Transmission Easement and all related rights under such Transmission Easement that will be reserved and retained by Seller in accordance with this Agreement), roads, streets and ways bounding said property (the "Property"). The Property is more particularly described as all or a ± 71.0 acre portion of the parcel having Wake County PIN 0629-64-9092, Wake County REID 0110325, and street address of ____ Woods Creek Road, Apex, NC 27539, as depicted on Exhibit "B" attached hereto.

The exact dimensions and description of the Property will be determined in accordance with the Survey approved by Seller and Buyer, but Seller and Buyer agree that the description of the Property set forth above shall be deemed sufficient to describe the Property to be conveyed, and Seller and Buyer each hereby waives any defense to enforcement of this Agreement based on vagueness of the description of the Property. The legal description of the Property to be conveyed by deed to Buyer shall be drawn from the Survey approved by the parties.

Exhibit "B"

Wake County GIS Aerial Photo of Subject Property
Portion of PIN 0629-64-9092 0629-64-9092 to be acquired: ±71.0 acres

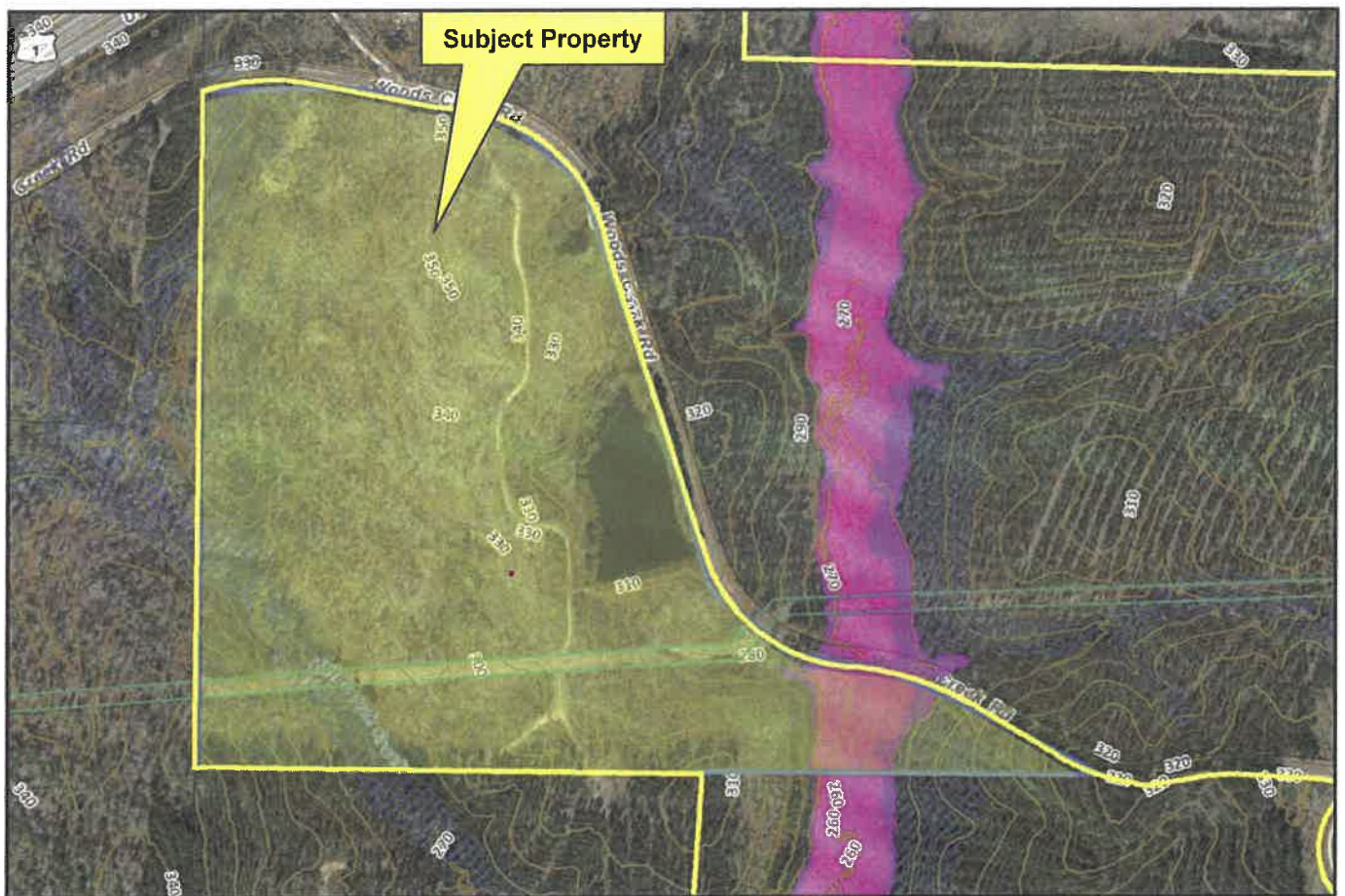


Exhibit "C"

**Wake County GIS Map of Subject Property Parent Tract:
Wake County PIN 0629-64-9092
± 1,844.16 acres**

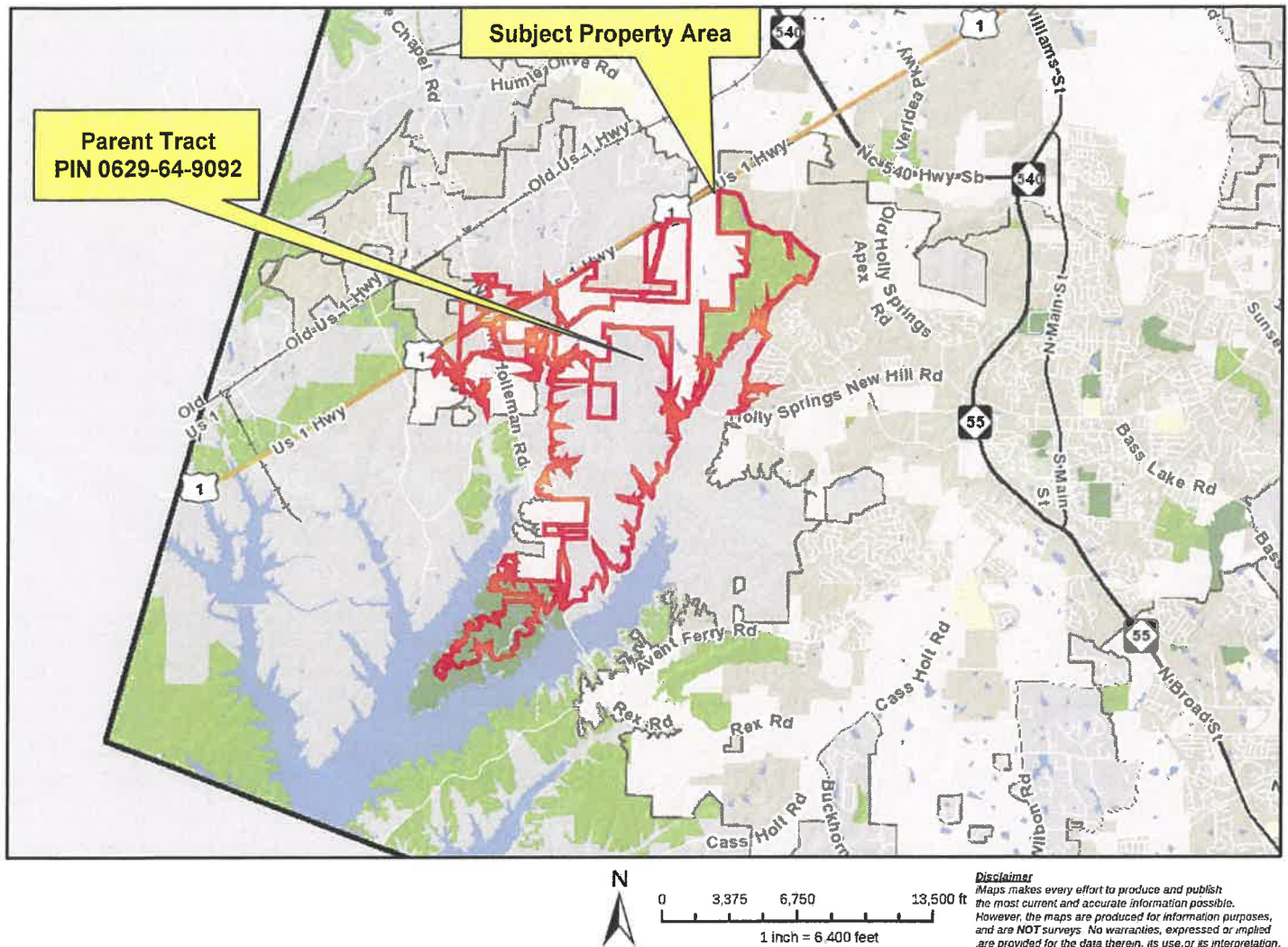


Exhibit "D-1"**(Reservation of Seller's Transmission Easement)**

The Special Warranty Deed from Seller to Buyer, the Wake County Board of Education (hereinafter referred to as the "**Grantee**"), shall contain, in substantially the same form as set forth below, the following reservation of easement in favor of the Seller, Duke Energy Progress, LLC (hereinafter referred to as "**DEP**"):

Transmission Easement

As used herein, the term "**Right of Way Strip**" shall mean *[that area or parcel of land containing _____ acres, more or less, being more particularly described and shown as the "R/W to be Retained" on that plat of survey entitled "_____ " dated _____, and marked Map No. _____, -- legal description of Right of Way Strip to be updated in accordance with the Survey approved by Seller and Buyer]*, said plat being attached hereto as Exhibit _____ and incorporated herein by reference.

(a) SUBJECT TO AND RESERVING from the above-described Property, the right, privilege, and perpetual easements and rights of way for DEP, its successors, and assigns, to go in and upon said Property within the Right of Way Strip (as defined herein) and to construct, reconstruct, replace, rebuild, enlarge, modify, remove, inspect, repair, maintain, operate and use within the Right of Way Strip multiple lines for transporting electrical energy and for telecommunications and/or data uses of DEP, its successors and assigns, which lines may consist of single or multiple rows of poles, towers, or other structures (at appropriate intervals and without limitation as to number) and related footings and foundations; crossarms; insulators; aboveground and/or underground conductors, static wires, grounds, cables, conduits, electronic equipment, and other appurtenant apparatus, fixtures, hardware, and appliances; and guy wires and anchors inside and/or outside the Right of Way Strip to support DEP's overhead facilities at angle points. DEP shall have the right to: (i) clear and keep the Right of Way Strip free of all trees and other vegetation (except as provided in subsection (b) below), structures, and other objects of any nature including, without limitation, satellite signal receiver systems, billboards, signs, buildings, manufactured homes, mobile homes and trailers, graves, wells, retaining walls, racking, dumpsters, sheds, fire pits or barbecues, swimming pools and any associated decking, septic systems or storage tanks and systems (whether aboveground or belowground), flammable

materials, building materials, wrecked or disabled vehicles or equipment, refuse of any type, and all other objects (whether aboveground or belowground); and (ii) install and maintain roads within the Right of Way Strip and install gates in any fences located within the Right of Way Strip, to afford DEP access to the Right of Way Strip.

(b) Grantee's Allowed Use. Grantee shall be entitled to use the Right of Way Strip for all purposes not inconsistent with the rights and easements herein granted to DEP, including the right to: (i) cultivate and harvest annual seasonal crops (not including orchards or timber); (ii) pave, improve and use the Right of Way Strip for vehicular parking, provided that such vehicles are operable and readily moveable under their own power and further provided that Grantee installs protective barriers satisfactory to DEP for the protection of DEP's facilities; (iii) use the Right of Way Strip for recreation, provided no structures or objects (aboveground or belowground) are erected or placed therein without the prior written approval of DEP (which DEP may withhold in its sole discretion); (iv) use and maintain existing roads and drives and sewer, water, and other utility lines within the Right of Way Strip at their existing locations as of the date of this Deed; (v) construct, use, and maintain new paved or unpaved roads, streets, and driveways and new water, sewer, drainage, and other utility lines or pipes crossing the Right of Way Strip, provided such facilities conform to the following requirements: (A) such facilities cross the Right of Way Strip from one side of the Right of Way Strip to the other side at an angle of not less than thirty (30) degrees between the center line of said facilities and the center line of the Right of Way Strip, (B) no road, street, or driveway shall intersect with any other road, street, or driveway, in whole or in part, within the Right of Way Strip, (C) no portion of such facilities and their associated easement area, if any, is located within twenty-five (25) feet of any of DEP's poles, towers, structures, guy wires, or guy anchors, (D) such facilities are constructed in such a manner as to withstand the weight of DEP's heavy equipment, and (E) such facilities are constructed in strict compliance with all clearance requirements of DEP and all other regulations and ordinances then applicable to electrical facilities; (vi) maintain fences existing as of the date of this Deed (if any), provided that DEP may add gates to allow it access as set forth in subsection (a)(ii) above; (vii) build new fences on the Right of Way Strip with the prior written approval of DEP (which DEP may withhold in its sole discretion), provided any such new fences conform to the following requirements: (A) such fences shall not be attached to DEP's poles, towers or structures, (B) such fences shall be installed at least twenty-five (25) feet from DEP's poles, towers, structures, guy wires, and guy anchors, (C) such fences shall not exceed ten (10) feet in height, (D) such fences shall cross the Right of Way Strip from one side of the Right of Way Strip to the other side at an angle of not less than 30 degrees between the centerline of the fence and

the center line of the Right of Way Strip, and (E) if a fence crosses the Right of Way Strip or makes part of it inaccessible to DEP, Grantee shall install a gate pursuant to DEP's specifications to allow free access required by DEP's vehicles and equipment; and (viii) excavate, grade, and fill, provided Grantee receives DEP's prior written approval (which DEP may withhold in its sole discretion), which approval may contain conditions including, without limitation, the allowable grade and distances from DEP's facilities that cannot be excavated.

(c) DEP's Use of Property Outside of the Right of Way Strip. DEP, its successors and assigns, further reserve the right to enter upon the Property outside of the Right of Way Strip for the following purposes and uses:

- (1) to cut, at any time and from time to time, in DEP's discretion, any tree located outside the Right of Way Strip the length of which tree plus five (5) feet equals or exceeds the distance from the base of such tree to the nearest overhead facility or to a point on the ground directly underneath the nearest overhead facility ("**Danger Trees**"), and to cut and remove any limb or any part thereof from any tree standing outside of the Right of Way Strip when such limb or part thereof protrudes or is likely to protrude into the Right of Way Strip; and
- (2) to gain access to the Right of Way Strip and Danger Trees at any time and from time to time by vehicles, equipment, and pedestrians, provided that DEP's use of the Property outside of the Right of Way Strip shall be confined to then-existing streets, roads, and driveways to the extent they provide sufficient access to the Right of Way Strip and/or Danger Trees by vehicles, equipment, and pedestrians.

(d) DEP's Use of Property Outside of the Right of Way Strip. DEP, its successors and assigns, further reserve the following rights:

- (1) to attach antenna or other equipment or devices for wireless or other telecommunications or data transmission for the sole use of DEP, its successors, assigns, and public safety and law enforcement governmental authorities, and not for the use or benefit of other commercial communications, telecommunications or data transmission entities ("**Communications Equipment**") to poles, towers, or other support structures within the Right of Way Strip, including the right to add, modify, enlarge, and/or extend any poles, towers, or other support structures for such purposes.
- (2) to use one or more portions of the Right of Way Strip, having dimensions not exceeding twenty-five (25) feet by twenty-five (25) feet and located adjacent to or at the base of each such pole, tower, or other support structure to which Communications Equipment is attached for the sole use of DEP, its successors, assigns, and public safety and law enforcement governmental authorities, and not for the use or benefit of other commercial communications, telecommunications or data transmission entities (each a "**Communications Area**") to construct, reconstruct, replace, rebuild, enlarge, modify, remove, inspect, maintain, and use electronic equipment and other equipment necessary or desirable in connection with wireless or other communications from and to the Communications Equipment installed upon such pole, tower, or other support structure. DEP shall be entitled to designate the location of the Communications Areas and may relocate such Communications Areas within the Right of Way Strip if such pole, tower, or other support structure to which Communications Equipment is attached is relocated.

- (3) to enter upon the Property outside of the Right of Way Strip to gain access to the Communications Areas and Communications Equipment by vehicles, equipment, and pedestrians, provided that DEP's use of the Property outside of the Right of Way Strip shall be confined to then-existing streets, roads, and driveways to the extent they provide sufficient access to the Communications Areas and/or Communications Equipment by vehicles, equipment, and pedestrians.
- (4) to construct, reconstruct, replace, rebuild, inspect, maintain, and use underground telephone and electrical lines to serve the Communications Equipment and Communications Areas for the sole use of DEP, its successors, assigns, and public safety and law enforcement governmental authorities, and not for the use or benefit of other commercial communications, telecommunications or data transmission entities, which underground lines may be installed along and generally parallel to the access route or routes established pursuant to subpart (d)(3) above.

(e) DEP's Repair Obligation. DEP shall repair damage to the Property, including roads, driveways, and fences, resulting directly from DEP's exercise of its rights granted herein. Provided, however, for purposes of the initial clearing of all trees which DEP is entitled to cut and remove from the Property pursuant to Paragraphs (a) and (c) herein, said trees shall, upon such cutting, become the property of DEP. Nothing in this Deed shall impose upon DEP any duty to repair or warn of any condition or any type of injury or damage to the Property existing prior to the date of this Deed, nor shall DEP shall have any duty to repair or warn of any condition or any type of injury or damage upon the Property caused by the Grantee, any third party, any Act of God, or any natural process, including, without limitation, erosion or conditions caused by vegetation occurring subsequent to the recordation of the Deed from DEP to Grantee.

The failure of DEP to exercise or continue to exercise any of the rights herein reserved shall not be construed as a waiver or abandonment of the right thereafter at any time or from time to time to exercise any and all of such rights.

Exhibit "D-2"

(Illustrative Depiction of Location of Seller's Transmission Easement Reservation)

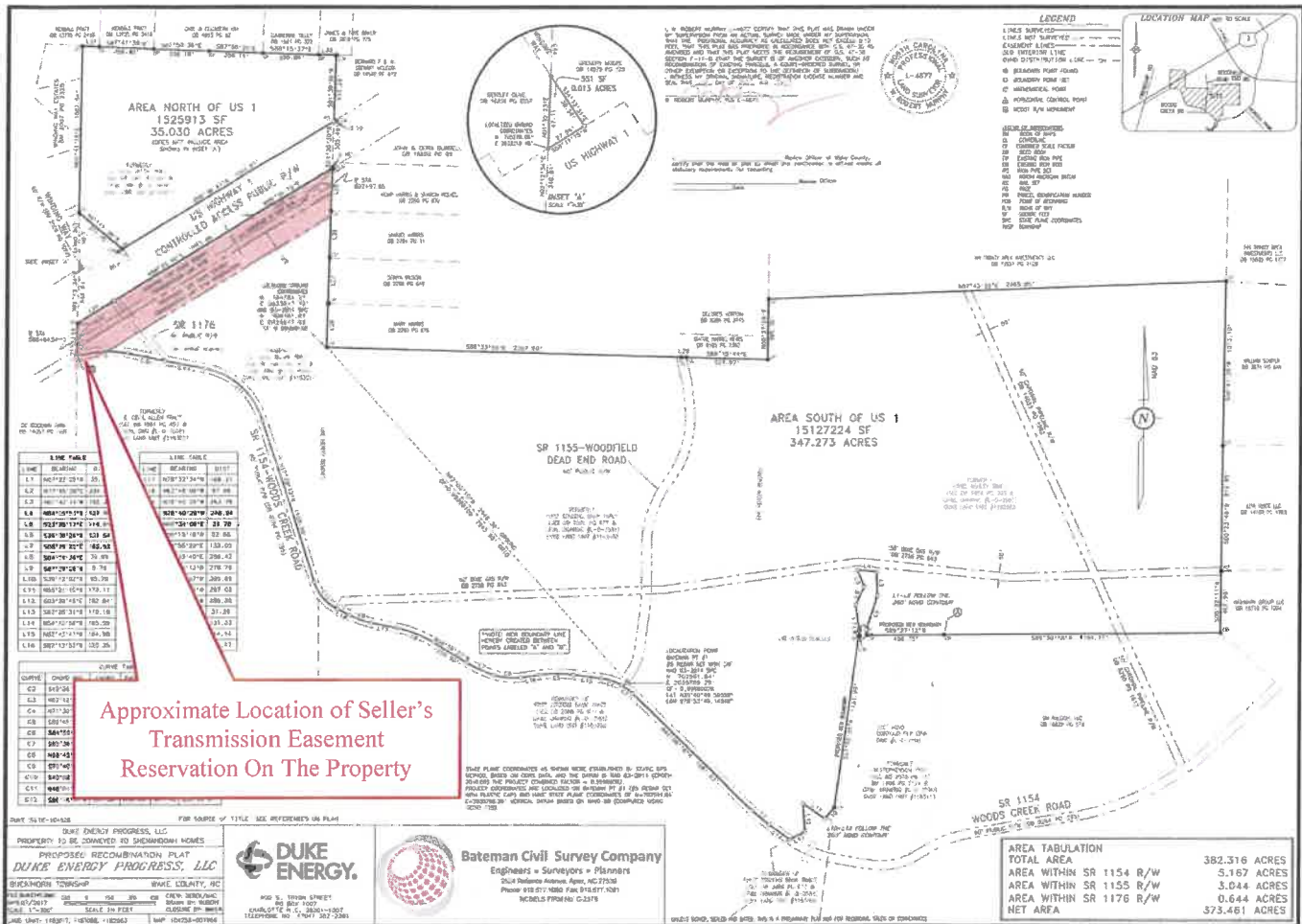


Exhibit "E"

(Example Form of Future Distribution Easement Conveyance)

BK016317PG01780

WAKE COUNTY, NC
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
03-15-2016 AT 09:20:43

BOOK: 016317 PAGE: 01780 - 01781

EASEMENT

NORTH CAROLINA

WAKE COUNTY

Return: Duke Energy Progress
ATTN: David Cribben, Jr.
4690 Simms Creek Road
Raleigh, NC 27616

THIS EASEMENT made this 10th day of MARCH, 2016, from THE WAKE COUNTY BOARD OF EDUCATION, a body Corporate, hereinafter referred to as GRANTOR (whether one or more), to DUKE ENERGY PROGRESS, LLC, hereinafter referred to as DEP;

WITNESSETH:

THAT GRANTOR, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant unto DEP, its successors and assigns, the right, privilege, and easement to go in and upon the land of GRANTOR situated in Cedar Fork Township of said County and State, described as follows: containing 33.943 acres, more or less, and being the land described in a deed from Research Triangle Foundation of North Carolina to Wake County Board of Education, dated February 23, 2016, recorded in Deed Book 19304, Page 1823, also shown on a plat entitled "Exempt Subdivision Plat on the Property of Research Triangle Foundation of North Carolina prepared for Research Triangle Foundation of North Carolina and The Wake County Board of Education (E-50 Elementary School)", dated October 22, 2016, recorded in Book of Maps 2016, Pages 15 and 16, all Wake County Registry, known as site E-50, LESS AND EXCEPT any prior out-conveyances, and to construct, maintain, and operate electric and/or communication facilities thereon consisting of poles, cables, wires, guys, anchors, underground conduits, enclosures, and other pertinent facilities within an easement area thirty (30) feet wide for the overhead portion of said facilities and ten (10) feet wide for the underground portion of said facilities together with an area ten (10) feet wide on all sides of the foundation of any DEP enclosure, with the right to do all things necessary, including, but not being limited to, the right: (a) to enter said easement area at all times over the adjacent land to inspect, repair, maintain, and alter said facilities; (b) to keep said easement area cleared of trees, shrubs, undergrowth, buildings, structures, and obstructions; (c) to trim or cut any tree adjacent to said easement area that may, in the opinion of DEP, endanger the overhead facilities or hinder the maintenance, operation, and use of the same; and (d) to install, at angle points of the overhead facilities, guy wires and anchors outside of said easement area. The center line of the facilities shall be the center line of said easement area.

Notwithstanding anything to the contrary above, it is understood and agreed that: (1) the EASEMENT herein granted is for facilities to be installed at any point where needed on the above-described land, portions of which facilities may be installed immediately, and other portions installed in the future as the need develops; (2) said facilities shall be installed at locations mutually agreeable to the parties hereto; and (3) DEP agrees, except during the initial construction of the herein above referenced facilities, portions of which facilities may be installed immediately, and other portions installed in the future, to promptly repair, at DEP's expense, any damages solely and directly resulting from DEP's maintenance or operational work, and to restore to the fullest extent practical the surface of GRANTOR'S property to substantially the same condition said property was in immediately preceding any work, ordinary wear and tear, and casualty excepted; provided, however, that in exercising said rights DEP agrees: (i) to install all anchors and guy wires permitted hereunder as close as practicable, in DEP's reasonable judgment, to the aforesaid easement area; (ii) that except in emergencies (as determined by DEP in its sole discretion), or to comply with any regulatory requirements, to use existing roads and paths to access said easement area, unless DEP determines, in its reasonable judgment, that such access is impracticable; and (iii) to conduct all work permitted hereunder in a professional and workmanlike manner.

It is understood and agreed that the easement area herein granted includes the relocation of any existing facilities on the land described above as needed.

Submitted electronically by "Duke Energy"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Wake County Register of Deeds.

BK016317PG01781

TO HAVE AND TO HOLD said rights, privilege, and easement unto DEP, its successors and assigns, forever. IN WITNESS WHEREOF, GRANTOR has caused this EASEMENT to be signed in its name by its duly authorized officials and its official seal to be hereunto affixed, as of the date first above written.

THE WAKE COUNTY BOARD OF EDUCATION,
a body Corporate

By: Thomas C. Benton

Thomas C. Benton, Chair

ATTESTED BY:

James G. Merrill
James G. Merrill, Secretary

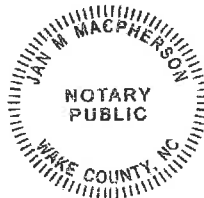


NORTH CAROLINA, WAKE COUNTY

I, JAN M. MACPHERSON, a Notary Public of WAKE

County, North Carolina, certify that James G. Merrill personally appeared before me this day and acknowledged that he is Secretary of THE WAKE COUNTY BOARD OF EDUCATION, a body Corporate, and that by authority duly given and as the act of said BOARD, the foregoing EASEMENT was signed in its name by its Chair, sealed with its official seal, and attested by himself as its Secretary.

Witness my hand and notarial seal, this 10th day of MARCH, 20 16.

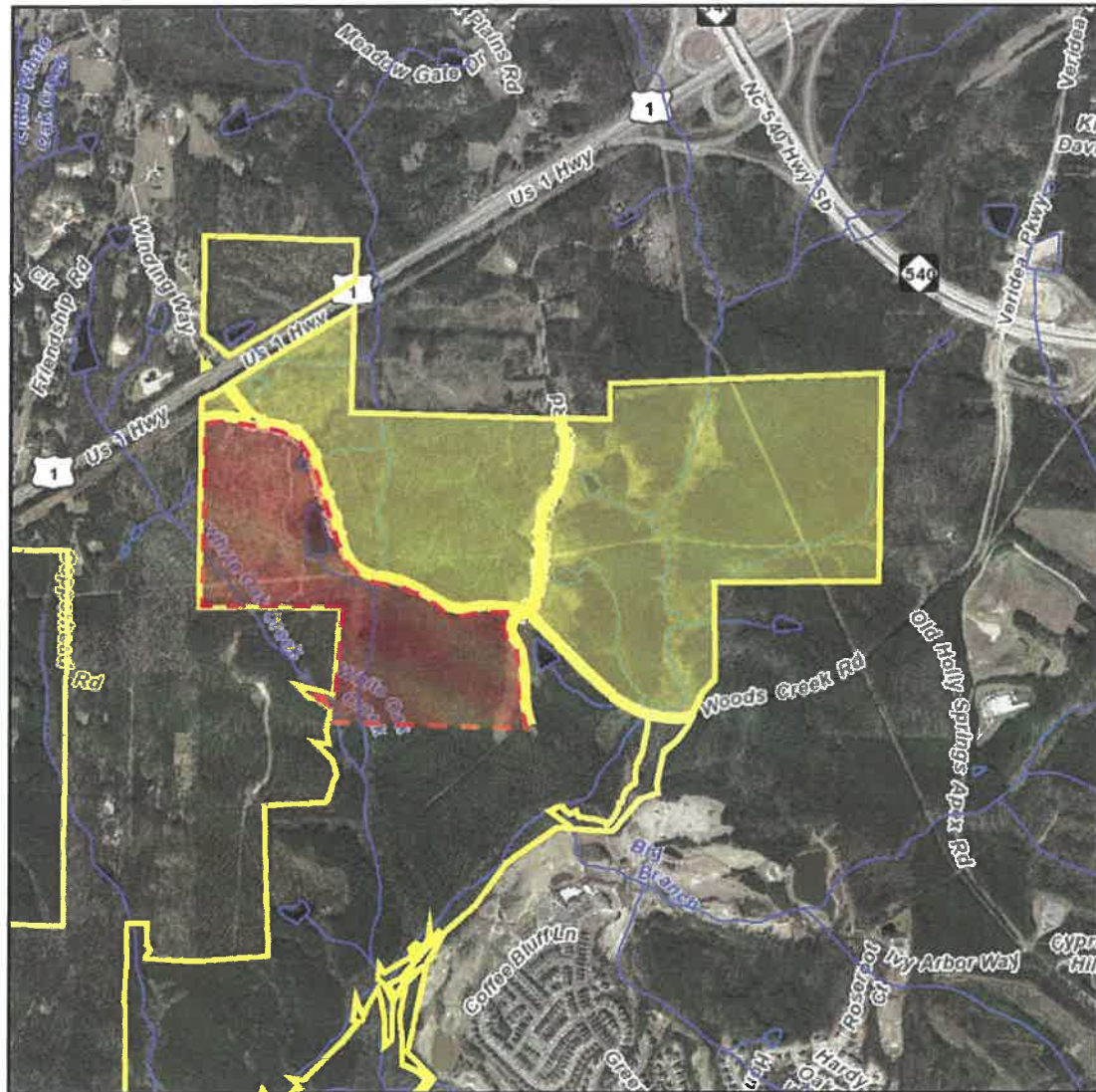




Jan M. MacPherson
Notary Public

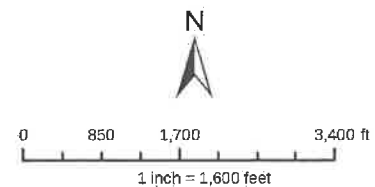
My commission expires: May 11, 2018

Exhibit "F"

(Depiction of Property and Adjacent Area To Be Submitted For Removal
from NCWRC Gamelands Program)



-  Property and Adjacent Area To Be Submitted For Removal From NCWRC Gamelands Program
-  Adjacent Area Previously Submitted For Removal From NCWRC Gamelands Program



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