

AMENDMENT OF GROUND LEASE AGREEMENT

Drawn by or under the direction of:
Smith, Anderson, Blount, Dorsett,
Mitchell & Jernigan, L.L.P. (DWB)
(NO OPINION ON TITLE)

Return Recorded Document to:
Duke Energy Progress, LLC
c/o Data & Document Management
526 South Church Street, ECII-05
Charlotte, N.C. 28202

STATE OF NORTH CAROLINA

Site No. 104538

COUNTY OF WAKE

Land Unit No. 1183057

Project No. 104528 - 859642

THIS AMENDMENT OF GROUND LEASE AGREEMENT (“**Amendment**”) is made and entered into as of this ____ day of _____ 2023, by and between **DUKE ENERGY PROGRESS, LLC**, a North Carolina limited liability company (f/k/a Duke Energy Progress, Inc. and f/k/a Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc.) (“**DEP**” or “**Landlord**”), and the **TOWN OF APEX**, an incorporated municipality in Wake County, North Carolina (“**Tenant**”).

WITNESSETH:

WHEREAS, Carolina Power & Light Company, as landlord, and the Apex Volunteer Fire Department – Rural Services, Inc., as tenant, entered into that certain Ground Lease Agreement dated February 1, 1997, as amended and assigned from the Apex Volunteer Fire Department – Rural Services, Inc. to the Town of Apex pursuant to that Assignment and Amendment of Ground Lease dated August 6, 2002, and recorded on October 30, 2013, in Book 15487, Page 2515, Wake County Registry (collectively the “**Ground Lease Agreement**”) regarding that certain tract of land containing 4.348 acres, more or less, located in Buckhorn Township, Wake County, North Carolina being more particularly described in the Ground Lease Agreement and on that plat entitled “Survey For Carolina Power & Light Company Map of C.P.&L’s Harris Plant Lands to be Leased to Apex Volunteer Fire Department, Inc.” recorded in Book of Maps 1996, Page 1781, Wake County Registry (the “**Premises**”); and

WHEREAS, subject to the terms and conditions of this Amendment, Duke Energy Progress, LLC (as successor of the original landlord, Carolina Power & Light Company) and the

Tenant have agreed to amend the Ground Lease Agreement to release a certain portion of the Premises from the terms and conditions of the Ground Lease Agreement in order to allow DEP's

subsequent sale of such released land to Wake County and its future use as a collector road that the Town of Holly Springs has included on its future transportation plan.

NOW THEREFORE, in consideration of the terms, covenants, and agreements hereinafter set forth to be kept and performed, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Recitals. The above-referenced recitals are incorporated herein by reference as if fully set forth herein.

2. Amendment of Premises. The Landlord and Tenant hereby agree that the portion of the Premises containing 0.33 acres (14,283 square feet), more or less, being more particularly described on Exhibit A attached hereto and incorporated herein by reference shall be excluded from the Premises and shall be released from the Ground Lease Agreement (hereinafter the “Released Land”). The Tenant hereby releases, abandons, and quitclaims unto Landlord any and all of the Tenant’s leasehold rights, title, and interest that the Tenant has or claims to have in and to the Released Land by virtue of the Ground Lease Agreement.

3. Recording. Landlord and Tenant agree that this Amendment of Ground Lease Agreement may be recorded in the Wake County Registry with the recording costs to be paid by Landlord.

4. All other terms, covenants, and agreements set forth in the Ground Lease Agreement shall continue in full force and effect, except as otherwise provided in this Amendment. Any capitalized terms used in this Amendment that are not defined or amended herein shall have the same meaning ascribed to them in the Ground Lease Agreement.

5. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

6. This Amendment may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Amendment shall be governed by and construed in accordance with the laws of the State of North Carolina.

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

IN WITNESS WHEREOF, Landlord and Tenant, by authority duly given, have executed this Amendment as of the date first above written.

LANDLORD:

DUKE ENERGY PROGRESS, LLC,
a North Carolina limited liability company
(f/k/a Duke Energy Progress, Inc. and f/k/a Carolina Power
& Light Company d/b/a Progress Energy Carolinas, Inc.)

By: _____

Name: Eric J. Rouse

Title: Director, Land Services

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public for _____ County, North Carolina, certify that Eric J. Rouse, either being personally known to me or proven by satisfactory evidence, personally appeared before me this day and acknowledged that he is the Director, Land Services, an authorized representative of DUKE ENERGY PROGRESS, LLC, a North Carolina limited liability company (f/k/a Duke Energy Progress, Inc. and f/k/a Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc.), and that he, as Director, Land Services, being authorized to do so, voluntarily executed the foregoing instrument on behalf of the limited liability company in the capacity indicated.

WITNESS my hand and official stamp or seal this _____ day of _____ 2023.

Notary Public
Printed/Typed Name: _____

My Commission Expires: _____

[AFFIX NOTARIAL STAMP OR SEAL]

IN WITNESS WHEREOF, Landlord and Tenant, by authority duly given, have executed this Amendment as of the date first above written.

TENANT:

TOWN OF APEX,
an incorporated municipality in
Wake County, North Carolina

By: _____
The Honorable Jacques Gilbert, Mayor

ATTEST:

By: _____, _____ Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, a Notary Public for _____
County, North Carolina, do hereby certify that _____ either being personally
known to me or proven by satisfactory evidence, personally came before me this day and
acknowledged that (s)he is the _____ Town Clerk of the Town of Apex, and that by authority
duly given and as the act of the Town Council of the Town of Apex, the foregoing instrument
was voluntarily signed in its name by its Mayor, Jacques Gilbert, and attested by herself/himself
as its Clerk.

Witness my hand and notarial seal, this _____ day of _____ 2023.

Notary Public
Printed/Typed Name: _____

My Commission Expires: _____

[AFFIX NOTARIAL STAMP OR SEAL]

EXHIBIT A

(DESCRIPTION OF RELEASED LAND)

BEING all that tract of land containing an area of 0.33 acres (14,283 square feet) (including right of way), more or less, located in Buckhorn Township, Wake County, North Carolina; and bounded on the north, east, and south by other lands owned, now or formerly, by Duke Energy Progress, LLC and on the west by the centerline of New Hill - Holleman Road (N.C.S.R. 1127); said tract being more particularly described and shown as the “Unlease Area” and by courses based on the North Carolina Grid Coordinate System (NAD83/2011) and distances according to a survey entitled “Exhibit Map Only of Future New Hill Holleman Road EMS Site for Wake County” prepared by McKim & Creed, Inc. dated August 2, 2022 (and last revised October 10, 2022) and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, COMMENCE at McKim & Creed, Inc. “Control Point # 2 (Rebar & Cap)” having NC Grid (NAD83/11) Coordinates of Northing = 700,089.01 feet, Easting = 2,020,049.03 feet; thence as a tie line North 62 degrees 50 minutes 56 seconds East 76.04 feet to an iron rod set in the eastern right-of-way line of New Hill – Holleman Road (N.C.S.R. 1127) (right-of-way varies), the TRUE POINT OF BEGINNING; thence from said True Point of Beginning South 72 degrees 05 minutes 44 seconds West 35.00 feet to a calculated point in the centerline of New Hill – Holleman Road (N.C.S.R. 1127) (variable width right-of-way); thence along and with the centerline of New Hill – Holleman Road the following two (2) calls and distances: (1) North 26 degrees 48 minutes 59 seconds West 8.10 feet to a calculated point; and (2) North 27 degrees 28 minutes 16 seconds West 22.31 feet to a calculated point; thence leaving the centerline of New Hill – Holleman Road and with the existing boundary lines of the Premises shown on that survey recorded in Book of Maps 1996, Page 1781, Wake County Registry the following two (2) calls and distances: (1) North 72 degrees 05 minutes 44 seconds East 475.56 feet to an iron pipe found; and (2) South 29 degrees 21 minutes 20 seconds East 30.61 feet to an iron rod set; and thence with a new boundary line for the Premises South 72 degrees 05 minutes 44 seconds West 441.68 feet to an iron rod set, the TRUE POINT OF BEGINNING.

A copy of a portion of the above-referenced “Exhibit Map Only of Future New Hill Holleman Road EMS Site for Wake County” is attached hereto as part of **Exhibit A** and incorporated herein by reference.

EXHIBIT A

(DESCRIPTION OF RELEASED LAND)

Portion of "Exhibit Map Only of Future New Hill Holleman Road EMS Site for Wake County"

THIS MAP IS NOT 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.

