# Rezoning Application

**Owner Information**

| | |
|---|---|
| Owner's Name: | TRACT 1 - STEWART PROPERTIES; ATTN: PETE SIEGENTHALER<br>TRACT 2 - DSSA PROPERTIES, LLC; ATTN: SAM STEWART |
| Owner's Address: | TRACT 1 - 1318 MEDINAH DR.; FORT MYERS, FL 33919<br>TRACT 2 - 6893 MAIN ST.; LITHONIA, GA 30058 |
| Phone: | TRACT 1 - (239) 482-0553<br>TRACT 2 - (770) 482-8841 |
| Fax: | |
| Email: | TRACT 1 - CPS38@AOL.COM<br>TRACT 2 - SSTEWART@CAMERONANDROBERTS.COM |
| Property Address: | TRACT 1 - 6378 E GLEN RD; LITHONIA, GA 30038<br>TRACT 2 - 2975 EVANS MILL RD REAR; LITHONIA, GA 30038 |
| Parcel Size: | TRACT 1 - 20.98 ACRES<br>TRACT 2 - 10.05 ACRES |
| Parcel ID: | TRACT 1 - 16 106 01 007 TRACT 2 - 16 106 01 006 |
| Current Zoning Classification: | R-100 / STONECREST OVD TIER 4 |
| Requested Zoning Classification: | OD - OFFICE / DISTRIBUTION |

**Property Information**

| | |
|---|---|
| Name: | |
| Address: | |
| Phone: | Fax: |
| Cell: | Email: |

Is this development and/or request seeking any incentives or tax abatement through the City of Stonecrest or any entity that can grant such waivers, incentives, and/or abatements?

☐ Yes ☒ No

**Questionnaire**

1. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties?

PLEASE SEE ATTACHED LETTER OF INTENT

2. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned?

PLEASE SEE ATTACHED LETTER OF INTENT

3. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?

PLEASE SEE ATTACHED LETTER OF INTENT

4. Are other existing or changing conditions affecting the existing use or usability of the development of the property which give supporting grounds for either approval or disapproval of the zoning proposal?

PLEASE SEE ATTACHED LETTER OF INTENT

5. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources?

PLEASE SEE ATTACHED LETTER OF INTENT

6. Will the zoning proposal result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?

PLEASE SEE ATTACHED LETTER OF INTENT

THE CITY OF STONECREST GEORGIA

**Affidavit**

*To the best of my knowledge, this zoning application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Stonecrest Zoning Ordinance.*

Applicant's Name: Duke Realty Limited Partnership
By: Duke Realty Corporation
By: J. Christopher Brown, SVP

Applicant's Signature: J. Cr[illegible] | Date: March 1, 2021

**Notary**

Sworn to and subscribed before me this 1st Day of March 20 21

Notary Public: Bonnie L. Catanach

Signature: Bonnie L Catanach

My Commission Expires: 8/30/2023

BONNIE L CATANACH NOTARY PUBLIC EXPIRES GEORGIA AUG. 30, 2023 JACKSON COUNTY

**Fee**

☐ Application Fee ☐ Sign Fee ☐ Legal Fee

Fee: $ | Payment: ☐ Cash ☐ Check ☐ CC | Date:

☐ Approved ☐ Approved with Conditions ☐ Denied | Date:

***One sign is required per street frontage and/or every 500 feet of street frontage**

# WILSON BROCK & IRBY, L.L.C.

ATTORNEYS AT LAW

OVERLOOK I, SUITE 700
2849 PACES FERRY ROAD
ATLANTA, GEORGIA 30339

HAROLD BUCKLEY, JR.

HBUCKLEY@WBILEGAL.COM
DIRECT DIAL: (770) 803-3707

TELEPHONE
(404) 853-5050

FACSIMILE
(404) 853-1812


March 1, 2021

*VIA ELECTRONIC MAIL*

Mr. Chris Wheeler, Director
City of Stonecrest Community Development Department
3120 Stonecrest Boulevard, Suite 190
Stonecrest, GA 30038

Re: Letter of Intent, Justification, and Environmental Site Analysis for Application by Duke Realty for Rezoning and a Related Comprehensive Plan Map Amendment (a "Comp Plan Amendment") for Property Fronting on Lithonia Industrial Boulevard.

Dear Mr. Wheeler:

My firm represents Duke Realty Limited Partnership ("Duke"), which desires to develop the Site with a warehouse distribution center. Duke respectfully seeks to rezone 2975 Evans Mill Road (16 106 01 006) and 6378 East Glen Road (16 106 01 007) (collectively the "Site") From R-100 (Single-Family Residential) - Stonecrest Overlay District – Tier 4 to OD (Office Distribution). Due to the nature of its rezoning request, Duke also seeks a Comp Plan Amendment to redesignate the Site from City Center to Light Industrial.

The approval standards for Comp Plan Amendments and rezoning applications are set forth in sections 7.3.4 and 7.3.5 of the zoning ordinance, respectively. Duke's application satisfies all of these approval standards as follows:

## I. The Comp Plan Amendment request satisfies all of the city's approval standards

### A. <u>The Comp Plan Amendment is suitable in consideration of adjacent and nearby uses</u>

The Site is located at the southeast corner of Lithonia Industrial Boulevard and I-20. This location makes the Site uniquely suited for Duke's proposed distribution center because trucks can access it directly from I-20 without traveling through any established residential communities.

New Birth Missionary Baptist Church ("New Birth") is the only development located across the street from the Site. The church occupies several buildings encompassing total floor area of approximately 240,000 square feet on a 234-acre campus. Redesignating the Site as Light Industrial is suitable in light of this major institutional use.

The Site's rear property line abuts residential uses in a retirement community known as the Villages East Duplexes, and a few single-family residences along E. Glen Road. Duke's

proposed distribution center is suitable in consideration of these residential uses because vehicular access to the Site will be provided exclusively from Lithonia Industrial Boulevard; and a substantial tree buffer will prevent the new facility from being visible to any residential neighbors. Therefore, amending the Site's land use designation is suitable even in light of the adjacent residential uses.

B. The Comp Plan Amendment will not adversely affect the use or usability of adjacent or nearby properties

Redesignating the Site as Light Industrial will not adversely affect surrounding properties because the only development on the other side of Lithonia Industrial Boulevard is also an institutional use. Furthermore, the proposed distribution center will not be accessible or visible from the residential properties along the rear of the Site.

C. The Comp Plan Amendment will not overburden the city's transportation infrastructure, utilities, or schools

Redesignating the Site as Light Industrial will not generate any additional demand for schools or other educational infrastructure. Furthermore, the Site is served by the same robust transportation ad utility infrastructure that serves New Birth. Therefore, existing local infrastructure is more than sufficient to support Duke's comprehensive plan amendment.

D. The Comp Plan Amendment is consistent with the city's land use policies

The comprehensive plan sets forth an enumerated set of light industrial land use policies that require:

- Appropriate infrastructure support for industrial development
- Buffering to protect surrounding areas from industrial noise and light pollutants
- Protection of established residential areas from industrial encroachment, and
- Good access to highways

The Comp Plan Amendment is consistent with the foregoing land use policies for several reasons. The Site has access to public infrastructure that is configured to handle high density development like New Birth, and it is directly adjacent to the interchange for Lithonia Industrial Boulevard and I-20. The Site is located adjacent to established residential property, but it does not encroach into any established residential areas. Instead, this segment of Lithonia Industrial Boulevard is characterized by major institutional development and raw land. And finally, Duke's development plan incorporates a 75-foot undisturbed tree buffer that protects that adjacent residential area from potential industrial light and noise impacts.

E. The Comp Plan Amendment will not impact any other governmental jurisdiction

Redesignating the Site will not impact any other governmental jurisdiction because the property is located more than a mile from the city's nearest corporate limits.

F. Conditions affecting the Site's proposed use and development support the approval of Duke's application

The public tends to perceive distribution centers as facilities that exclusively serve and benefit business interests, primarily as a network that facilitate business-to-business deliveries. What is less apparent to the public on a macro level is how the sharp rise of e-commerce over the past decade has fundamentally changed consumer markets and expectations. More specifically, American consumers (including Stonecrest residents) have come to expect to receive goods they ordered online to be delivered within 1 or 2 days due to the ease of online purchasing. Due to these market conditions, the role that distribution centers play in the consumer market will continue to grow and evolve.

Furthermore, one of the lessons of the ongoing COVID-19 pandemic is that society needs a robust supply chain for the storage and distribution of critical goods and materials. In this case, those goods and materials are ventilators, N95 masks, disinfecting products, and medicines. The use of intermediary warehousing is increasing to compensate for substantial disruptions in supply chain logistics. Additionally, the current pandemic has turbocharged consumer demand for e-commerce services at the very time that supply chain logistics is being called upon to facilitate the distribution and storage of emergency products and supplies.

Finally, recent storms in Texas and other states have shown that extreme weather can disrupt supply chain operations far beyond immediately impacted areas. Given the rapidly accelerating effects of climate change, it is foreseeable that weather-based supply chain disruptions will increase in frequency.

For these reasons, future government emergency preparedness plans will almost certainly include pre-emptive supply chain logistics flexibility. Therefore, the logistics industry will be called upon to accommodate sudden and unforeseen demand for emergency supplies on top of the ongoing shift in the consumer market from bricks-and-mortar retail to e-commerce services.

The foregoing existing and changing conditions support the approval of Duke's comprehensive plan amendment.

G. The Comp Plan Amendment will not impact any historic or archaeological resources

Duke commissioned a professional cultural resources analysis, prepared by a historian **and** an archeologist. The foregoing experts concluded that the Site does not contain any historic or archaeological resources that could be disturbed by Duke's development proposal; and that no such resources were located within 1,100 feet of the Site. A copy of this written analysis is included in Duke's application package.

## II. The rezoning request satisfies all of the city's rezoning approval standards

As explained in detail above, the approval of Duke's rezoning request:

- Conforms to the policy and intent of the comprehensive plan
- Is suitable in light of the use and development of adjacent or nearby properties
- Will not adversely affect the use and development of adjacent or nearby properties
- Is supported by existing and changing conditions
- Will not have any impact on historic or archaeological resources, and
- Not overburden the city's transportation infrastructure, utilities, or schools

A. The Site does not have a reasonable economic use under its current zoning

The Site has been zoned single-family residential since before it was incorporated into the city of Stonecrest, during which time it failed to attract any residential development activity. The site across the street at 6400 Woodrow Road, which has the same single-family residential zoning, similarly failed to attract any significant development activity until New Birth improved the site with its transformational 234,000-square-foot church campus. The foregoing facts support a determination that the Site does not have a reasonable economic use under its current single-family residential zoning.

B. Environmental Site Analysis: Duke's proposed distribution center will not adversely impact the environment or surrounding natural resources

Duke commissioned a Phase I Environmental Assessment Report a ("Phase I") and an Aquatic Resource Delineation Report on the Site (an "Aquatic Report"). The following environmental site analysis is based on the professional analysis and conclusions in these reports, which are included in Duke's zoning application package.

1. Conformance to the comprehensive plan
   a. Description of project and existing environmental Site conditions

The proposed distribution center will consist of a 329,280-square-foot building and accessory car and truck parking. Parking is provided in four interconnected parking areas. Truck parking will be provided on the north and south sides of the building, adjacent to the building's loading areas. The two areas for car parking spaces will be provided at the front and rear of the building. Vehicular access to the Site will be provided exclusively from Lithonia Industrial Boulevard.

The Site has a total land area of approximately 30 acres. The Aquatic Report identified approximately 0.030 acres (1,306.80 square feet) of wetland area along the Site's northern boundary, adjacent to the I-20 right-of-way.[1] This small wetland area, which drains into a concrete culvert underneath I-20, is the only environmentally sensitive area on the Site.

There is an unnamed off-site stream that is located on residential land to the east of the Site, which has a linear length of approximately 181.44 feet.[2] Because of its off-site location, Duke's development proposal cannot physically impact this stream.

b. Description of adjacent properties

The Site is located on the east side of Lithonia Industrial Boulevard, immediately south of the right-of-way for I-20. All of the properties on the east side of Lithonia Industrial Boulevard between I-20 and Woodrow Road, including the Site, are heavily wooded raw land. The Site abuts residentially developed property along its rear property line.

c. Project conformance to the Comprehensive Land Use Plan

As explained in the foregoing analysis for the Comp Plan Amendment, the project conforms to the Comprehensive Land Use Plan's land use policies.

d. Comprehensive Land Use Map

The Comprehensive Land Use Map designates the Site for residential use. Therefore, this rezoning application includes a request to redesignate the Site for industrial use.

e. Project compliance with Comprehensive Land Use Plan policies

As explained in the foregoing analysis for the Comp Plan Amendment, the project conforms to the Comprehensive Land Use Plan's land use policies.

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[1] Aquatic Report, Figure 2.
[2] Id.

2. Environmental impacts of the proposed distribution center

Duke's site plan does not call for the disturbance of the small wetland area along the boundary the Site shares with the I-20 right-of-way. The Site does not have any other environmentally sensitive areas.

3. Project implementation measures

The only environmentally sensitive Site condition is a small wetland area along the property's northern boundary, adjacent to I-20. Duke's site plan does not call for the disturbance of this wetland area.

The Site directly residential property along its rear property line. Duke's site plan calls for the provision of a 75-foot undisturbed tree buffer immediately adjacent to abutting residential properties. This tree buffer will protect these residential properties from potential industrial light and noise impacts.

## III. Constitutional objections

Georgia courts have long held that a zoning applicant must present any potential constitutional objections to the local government during the zoning review process. Applicants who fail to do so substantially deprive themselves of a legal basis to appeal adverse zoning decisions.[3] Therefore, for the sole purpose of satisfying this strict requirement of Georgia law, Duke very respectfully advises the city of its constitutional objections.

1. The approval standards set forth in the Stonecrest zoning ordinance (the "Zoning Ordinance") do not sufficiently restrain the City Council's discretion regarding the approval of rezoning applications, which deprives the Courts of a reasonable basis for judicial review of such decisions. Therefore, any denial of the Application (or the approval of any lesser relief than requested) would deprive Duke of its protected rights to due process of law and equal protection under the law in violation of Article I, Section III, Paragraph 1; and Article I, Section I, Paragraphs 1 and 2 of the Constitution of the State of Georgia, 1983. Similarly, such action would also violate and the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

2. The denial of the Application (or the approval of any lesser relief than requested) would substantially damage the usability of Duke's property, thereby seriously compromising the property's marketability. Therefore, a denial of the Application would constitute the taking of property without due process and without the payment of adequate compensation in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; Article I,

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[3] DeKalb County v. Bembry, 252 Ga. 510, 314 S.E.2d 900 (1984) (Held that the trial court erred in failing to grant summary judgment to DeKalb County because the applicant failed to present constitutional objections to the County Commission).

Section III, Paragraph 1 of the Constitution of the State of Georgia, 1983; and the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

3. The denial of Duke's application (or the approval of any lesser relief than requested) would be inconsistent with the policies set forth in the Zoning Ordinance, making such a decision an arbitrary and capricious act. Therefore, such action would deprive Duke of its protected rights to due process of law and equal protection under the law under the Constitution of the State of Georgia, 1983 and the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

4. The Zoning Ordinance sets forth the sole criteria to be used by the City Council in its review and consideration of Duke's application. Denial of the application (or the approval of any lesser relief than requested) based on criteria and/or considerations other than those expressly enumerated in the Zoning Ordinance for rezoning applications would constitute an arbitrary, capricious and unreasonable use of the zoning power and a deprivation of property without due process of law in violation of Article I, Section I, Paragraphs 1 and 2 of the Constitution of the State of Georgia, 1983; Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia, 1983; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983; and the equal protection and due process clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

Please let me know if I may provide you with any additional information or clarify anything in this letter.

Sincerely,

WILSON BROCK & IRBY, L.L.C.

Harold Buckley Jr.

By: Harold Buckley, Jr., AICP
Attorneys for Duke Realty Limited Partners

Enclosures

cc: Mr. Morris Williams
Mr. David Sprinkle
Mr. Wes Hardy
Mr. Larry M. Dingle

# Lithonia Industrial – Warehouse Trip Generation

**February 23, 2021**

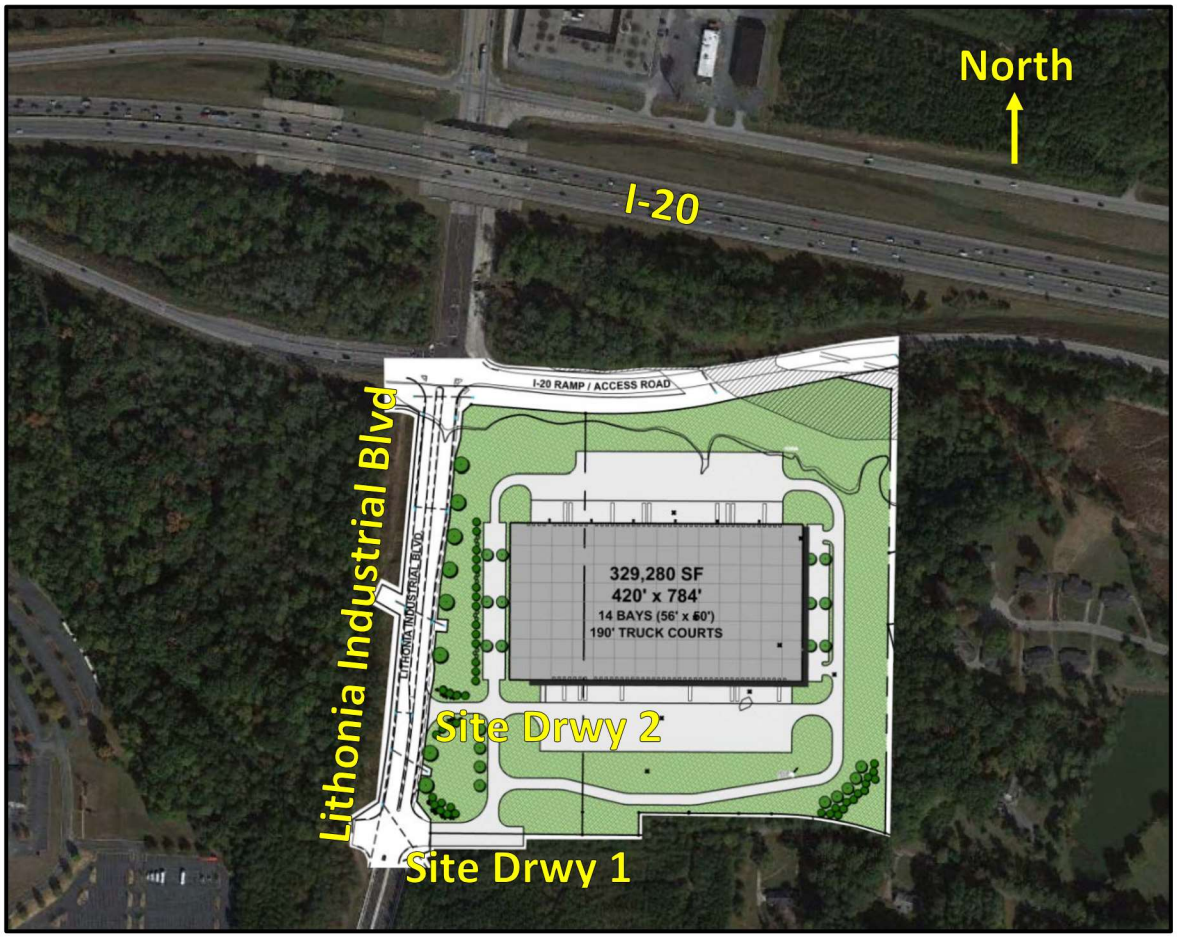
To Whom it May Concern,

This memo is a summary of the vehicle trip generation analysis for the driveway intersections of the proposed industrial warehousing. Driveway 1 is proposed to be a full-access driveway and Driveway 2 is proposed to be a right-in, right-out.

**Project Description**

A proposed development is planned to be located on Lithonia Industrial Blvd in the City of Stonecrest, GA. The development consists of approximately 329,280 square foot (SF) of warehousing. The site location is shown in Figure 1.

**Figure 1: Site Aerial**




990 Hammond Drive, Suite 900, Atlanta, Georgia 30328
Phone: 770.857.8400 I Fax: 770.857.8401 I loweengineers.com

## Trip Generation

A trip generation for the proposed development was created using the Institute of Traffic Engineers (ITE) Trip Generation Manual 10th Edition, 2017. A full trip generation including equations used is shown in Table 1.

**Table 1: Trip Generation Summary**

| Land Use Information | Reduction % | Project Trips Total | Inbound | Outbound | Equation Used[1] | In / Out Distribution |
|---|---|---|---|---|---|---|
| **150 - Warehousing** | | | | | **329,280** | **1000 S.F.** |
| Daily | | 569 | 285 | 284 | T=1.58(X) + 48.54 | 50% / 50% |
| AM Peak Hour | | 65 | 50 | 15 | T=0.12(X) + 25.32 | 77% / 23% |
| PM Peak Hour | | 67 | 18 | 49 | T=0.12(X) + 27.82 | 27% / 73% |

The proposed development is anticipated to generate 569 daily vehicle trips (285 inbound, 284 outbound) with 65 AM peak hour vehicle trips (50 inbound, 15 outbound), and 67 PM peak hour trips (18 inbound, 49 outbound).

Per discussions with Chris Wheeler (Planning and Zoning Director) and Ken Hildebrandt (City Engineer) the development does not trigger the need for a traffic impact study as it generates less than 100 peak hour trips.

# WILSON BROCK & IRBY, L.L.C.

ATTORNEYS AT LAW

OVERLOOK I, SUITE 700
2849 PACES FERRY ROAD
ATLANTA, GEORGIA 30339

HAROLD BUCKLEY, JR.

HBUCKLEY@WBILEGAL.COM
DIRECT DIAL: (770) 803-3707

TELEPHONE
(404) 853-5050

FACSIMILE
(404) 853-1812


March 2, 2021

*VIA ELECTRONIC MAIL*

Mr. Chris Wheeler, Director
City of Stonecrest Community Development Department
3120 Stonecrest Boulevard, Suite 190
Stonecrest, GA 30038

Re: Public Participation Plan for Application by Duke Realty to Rezone Property Fronting on Lithonia Industrial Boulevard.

Dear Mr. Wheeler:

Duke Realty is pursuing a rezoning of property fronting on Lithonia Industrial Boulevard. This letter sets forth Duke's public participation plan for that rezoning application.

Duke understands that the planning staff will provide it with a mailing list identifying all community stakeholders within 500 feet of its proposed development site. Upon receiving this information, Duke will send a finalized copy of the attached public participation letter to all parties on the city's mailing list.

Duke will provide the planning staff with a public participation report detailing the substance of its public participation meeting.

Sincerely,

WILSON BROCK & IRBY, L.L.C.

Harold Buckley V.

By: Harold Buckley, Jr., AICP
Attorneys for Duke Realty Limited Partners

Attachment

cc: Mr. Morris Williams
Mr. David Sprinkle
Mr. Wes Hardy
Mr. Larry M. Dingle

030814.13
89399.1 121433-000001

# WILSON BROCK & IRBY, L.L.C.

**ATTORNEYS AT LAW**

OVERLOOK I, SUITE 700
2849 PACES FERRY ROAD
ATLANTA, GEORGIA 30339

HAROLD BUCKLEY, JR.

HBUCKLEY@WBILEGAL.COM
DIRECT DIAL: (770) 803-3707

TELEPHONE
(404) 853-5050

FACSIMILE
(404) 853-1812


March ____, 2021

**DRAFT**

*VIA FIRST CLASS MAIL*

[INSERT ADDRESSEE]

Re: Application by Duke Realty to Rezone Property Fronting on Lithonia Industrial Boulevard – 2975 Evans Mill Road and 6378 East Glen Road.

Dear _____:

I am writing to let you know that Duke Realty has filed an application to rezone the above properties to allow the development of a warehouse distribution center. The addresses for the rezoning do not convey an accurate idea of where the properties are located. Our site is located on Lithonia Industrial Boulevard, across the street from New Birth Missionary Baptist Church. You can see our property in the materials that we enclosed with this letter.

The proposed distribution center will consist of a 329,280-square-foot building and accessory car and truck parking areas. Vehicular access points to the Site will be restricted exclusively to Lithonia Industrial Boulevard. Also, the site is located directly next to access ramps to Interstate 20, so no commercial trucks will drive through any residential areas to access our property.

We look forward to working with our neighbors as we proceed through the zoning review process. We will host a virtual public participation meeting to open a community dialogue about our application. Please use the following information to participate in the meeting:

Meeting Date: March 31, 2021
Meeting Time: 6:30 pm

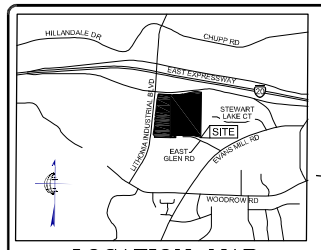
[*INSERT ZOOM ACCESS INFORMATION]*

We look forward to meeting you. Please do not hesitate to let me know if you have any questions that you would like to discuss with me outside of the public participation meeting.

Best regards,

Harold Buckley, Jr.

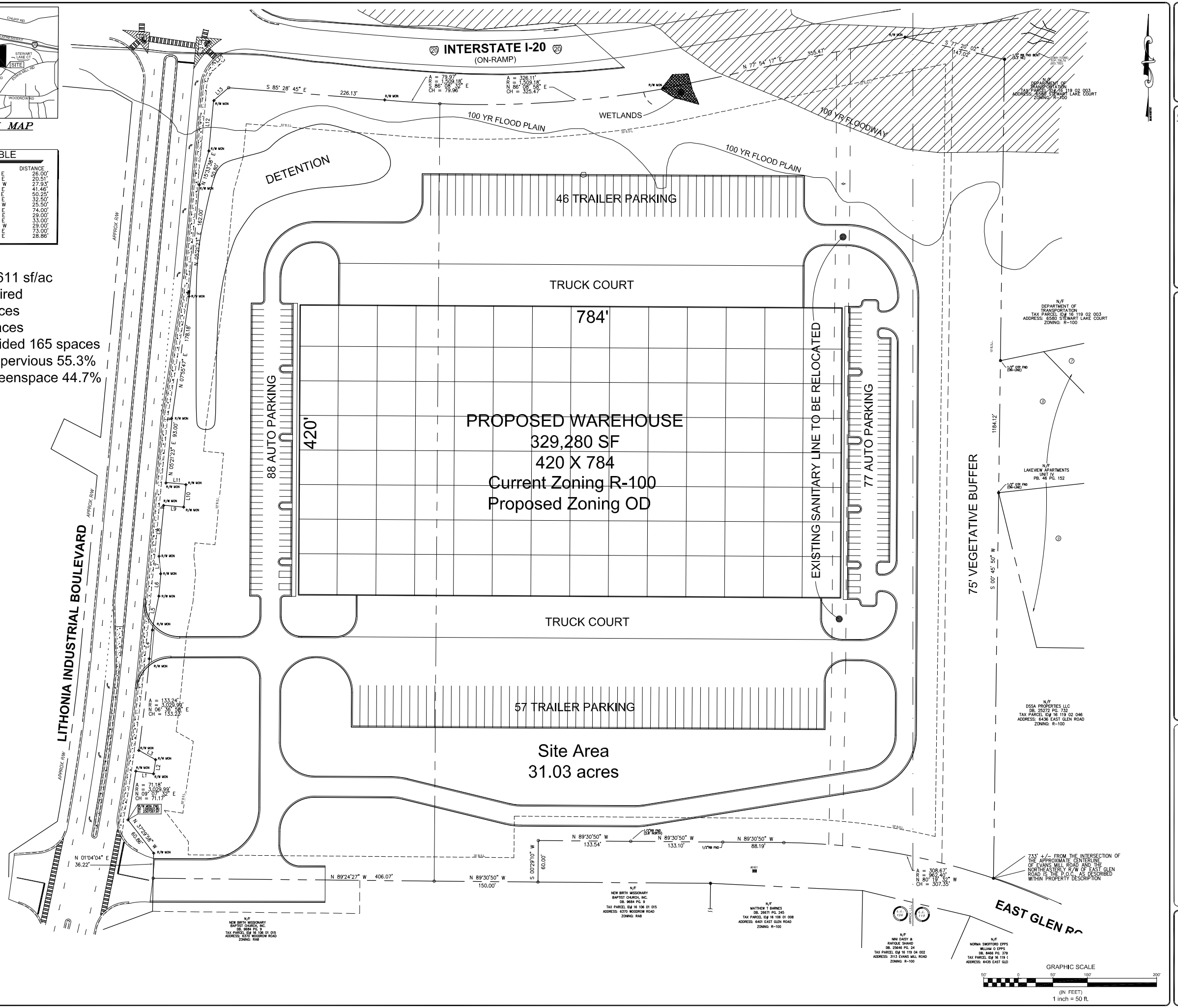
030814.13
89399.1 121433-000001




LOCATION MAP

| CALL TABLE | | |
|---|---|---|
| LINE | BEARING | DISTANCE |
| L1 | S 81° 32' 50" E | 26.00' |
| L2 | N 08° 15' 38" E | 20.51' |
| L3 | N 60° 35' 08" W | 27.93' |
| L4 | N 05° 21' 23" E | 41.46' |
| L5 | N 11° 04' 02" E | 50.25' |
| L6 | N 05° 21' 23" E | 32.50' |
| L7 | N 05° 57' 12" W | 25.50' |
| L8 | N 05° 21' 23" E | 74.00' |
| L9 | S 84° 38' 37" E | 29.00' |
| L10 | N 05° 21' 23" E | 33.00' |
| L11 | N 84° 38' 37" W | 29.00' |
| L12 | N 05° 21' 23" E | 73.00' |
| L13 | N 49° 13' 59" E | 28.86' |

Site Data
Density=10,611 sf/ac
parking required
min 132 spaces
max 659 spaces
parking provided 165 spaces
Proposed impervious 55.3%
Proposed greenspace 44.7%




Duke REALTY
3715 Davinci Court, Suite 300
Peachtree Corners, GA 30092
770.717.3200 - 770.717.3312 (fx)

CIVIL ENGINEER
HAINES, GIPSON & ASSOCIATES
1550 NORTH BROWN RD.
SUITE 100
LAWRENCEVILLE, GA 30043
770-491-7550

HGA
HAINES GIPSON & ASSOCIATES
Civil • Structural • Bridge

GEORGIA REGISTERED PROFESSIONAL ENGINEER No. 20380 RONALD CLAY LEWIS

GSWCC #900

# Lithonia Industrial Duke Realty

PARCEL ID 16-106-01-007 & 16-106-01-006
CITY OF STONECREST, DEKALB COUNTY, GEORGIA
EXISTING ZONING R-100/Proposed OD

ISSUANCES

| # | Description | Date |
|---|---|---|

DRAWING INFORMATION

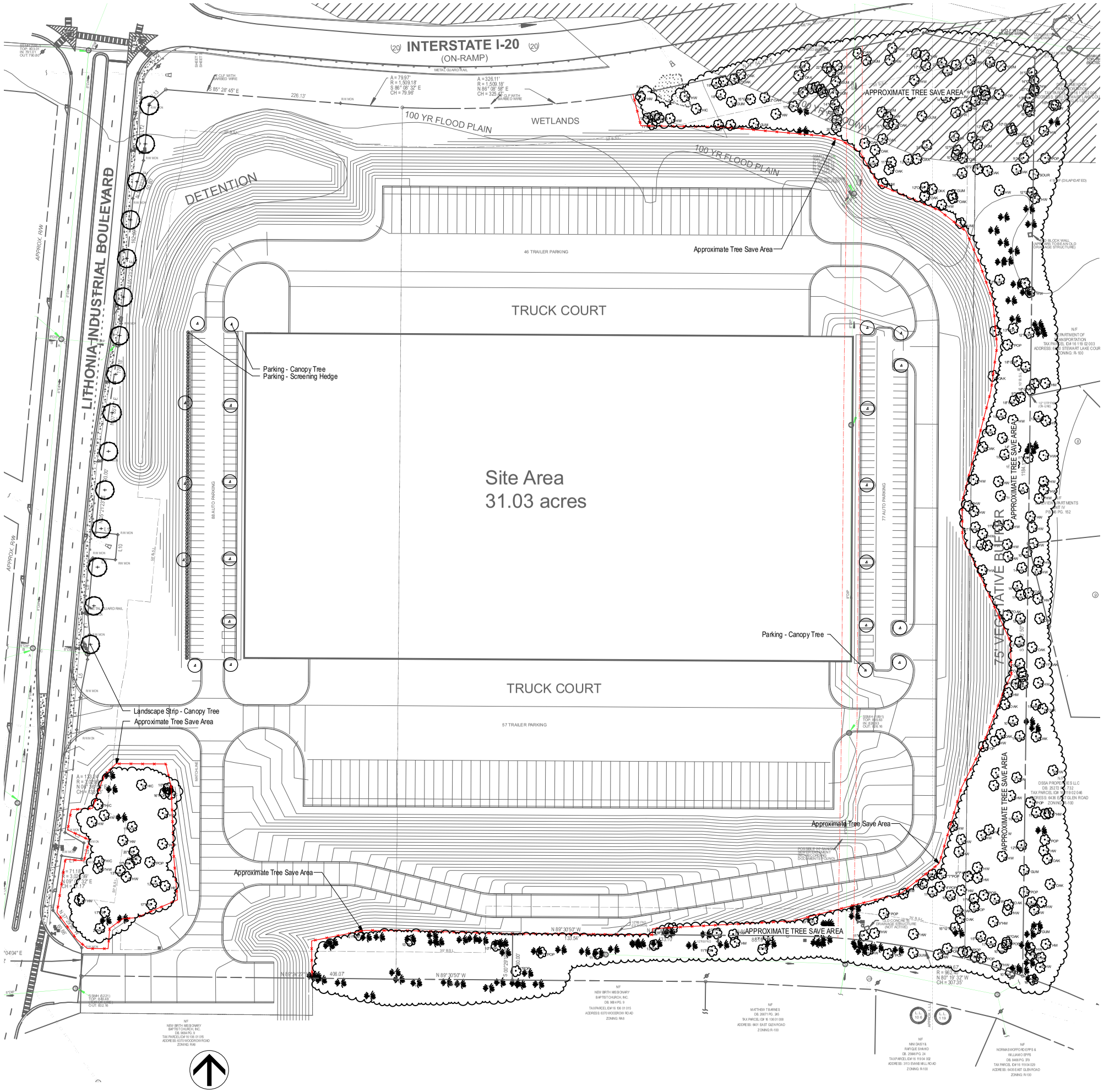
| | |
|---|---|
| Scale: | AS INDICATED |
| Date: | 23 FEBRUARY 2021 |
| Checked By: | RCL |
| Drawn By: | CDG/RCL |
| Duke Realty Job#: | XXX |
| A/E Job #: | 2020-315 |

DRAWING / SHEET TITLE

SITE PLAN

SHEET NUMBER

C-1.0




## LANDSCAPE REQUIREMENTS

**A. SEC. 5.4.4 PARKING AREA LANDSCAPING**

***REQUIRED***

1. 1 Tree per 8 parking spaces.
   - Lot A: 88 parking spaces / 8 = 11 Parking Lot Trees
   - Lot B: 77 parking spaces / 8 = 10 Parking Lot Trees
2. Trees shall be planted min. 30" away from any curb.
3. Trees shall be min. 2" Cal.; 10' Hgt at planting.
4. 75% trees shall be deciduous shade trees.
5. All trees shall be painted in a min. 250 SF planting area.
6. Continuous hedge shall be provided were parking is adjacent to public street righ-of-way.

***PROVIDED***

1. Lot A: 11 Canopy Shade Trees = 11 Parking Lot Trees
   Lot B: 10 Canopy Shade Trees = 10 Parking Lot Trees
2. Trees are planted min. 30" from curbs.
3. Trees are installed at 2" Cal.; 10' Hgt.
4. 100% of the trees are deciduous shade trees
5. All trees are painted within 250 SF planting area.
6. Continuous Dwarf Burford Holly hedge provided between parking and Lithonia Industrial Blvd.


Duke REALTY

3715 Davinci Court, Suite 300
Peachtree Corners, GA 30092
(770) 717- 3200 - (770) 638-2518 (fx)

manley LAND DESIGN
Landscape Architecture
770.442.8171 tel
770.442.1123 fax

Manley Land Design, Inc.
51 Old Canton Street
Alpharetta, Georgia 30009
manleylanddesign.com


# LITHONIA INDUSTRIAL DUKE REALTY

PARCEL ID 16-106-01-007 & 16-106-01-006
CITY OF STONECREST, DEKALB COUNTY, GEORGIA
EXISTING ZONING R-100/PROPOSED M

STATE OF GEORGIA
STEVE MANLEY
REGISTERED LANDSCAPE ARCHITECT
STATE NO. 1000

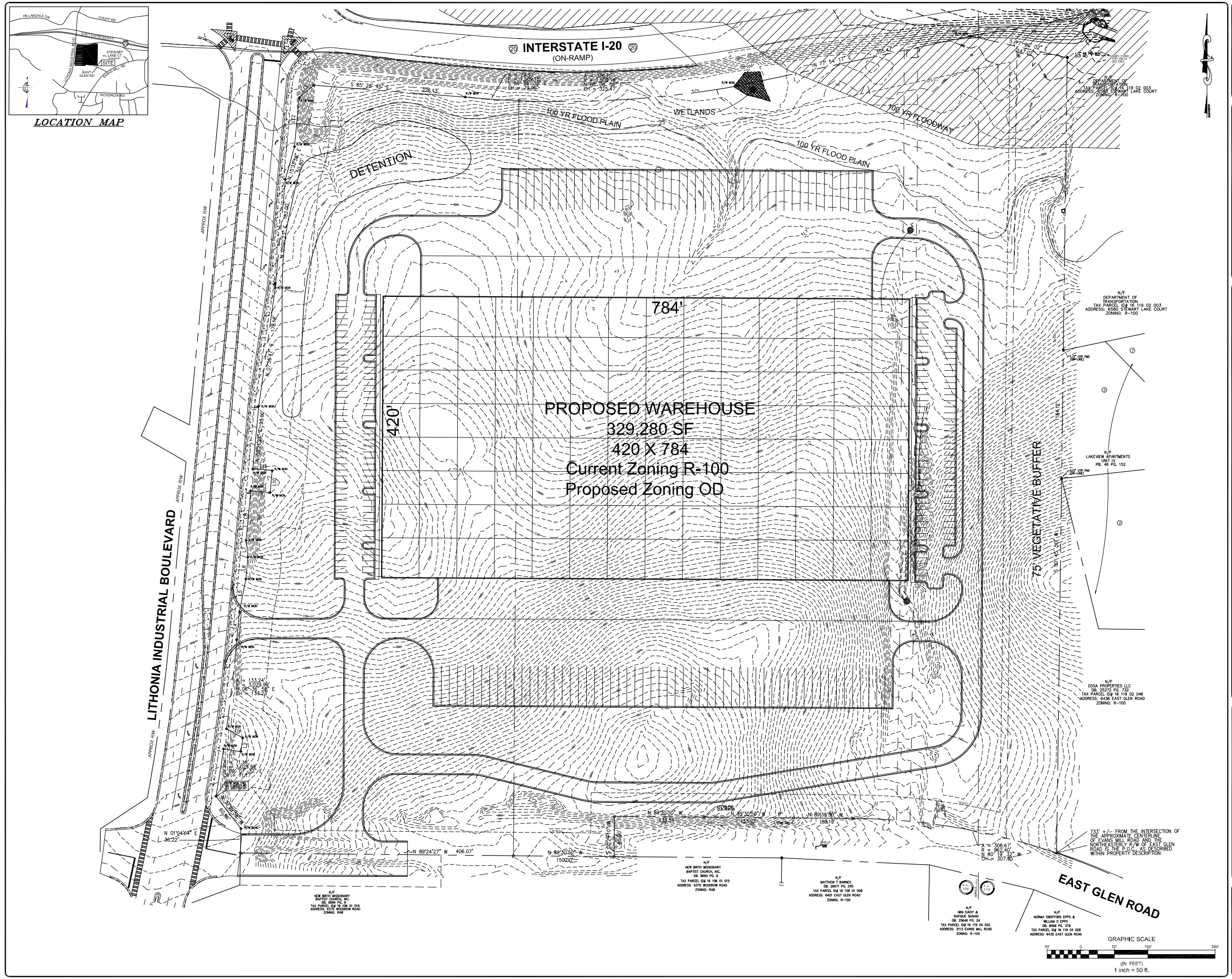
*REVISION SCHEDULE*

| NO. | DATE | DESCRIPTION |
|---|---|---|

| | |
|---|---|
| MLD PROJECT # | 2021040 |
| DRAWN BY | AN |
| CHECKED BY | AN |
| DATE | 3/1/21 |

**Landscape Plan**

**L-100**




Duke REALTY

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770-491-7550

HGA
HAINES GIPSON & ASSOCIATES
Civil • Structural • Bridge

GEORGIA REGISTERED No. 20380 PROFESSIONAL ENGINEER RONALD CLAY LEWIS

GSWCC #900

# Lithonia Industrial Duke Realty

PARCEL ID 16-106-01-007 & 16-106-01-006
CITY OF STONECREST, DEKALB COUNTY, GEORGIA
EXISTING ZONING R-100/Proposed OD

ISSUANCES

| # | Description | Date |
|---|---|---|

DRAWING INFORMATION

| | |
|---|---|
| Scale: | AS INDICATED |
| Date: | 23 FEBRUARY 2021 |
| Checked By: | RCL |
| Drawn By: | CDG/RCL |
| Duke Realty Job#: | XXX |
| A/E Job #: | 2020-315 |

DRAWING / SHEET TITLE

EXISTING TOPO

SHEET NUMBER

TP-1.0

## PROPERTY DESCRIPTION

Being all that tract or parcel of land lying and being in the City of Stonecrest, within Land Lots 106 & 119, 16th District, DeKalb County, Georgia and being more particularly described as follows:

To find the Point of Beginning, commence at the intersection of the approximate centerline of Evans Mill Road and the Northeasterly Right of Way Line of East Glen Road (an apparent 60 feet wide right of way); thence, leaving said centerline and running with the said line of East Glen Road, +/- 733 feet to a ½ inch rebar found at the True Point of Beginning of the herein described tract or parcel of land, said point being at State Plane Coordinate (Georgia West Zone) of North: 1,345,423.27; East 2,308,608.70; thence, leaving the said Point of Beginning and continuing with the said line of East Glen Road

1. 308.67 feet along the arc of a curve deflecting to the left, having a radius of 962.40 feet and a chord bearing and distance of North 80° 19' 32" West, 307.35 feet; thence,
2. North 89° 30' 50" West, 88.19 feet to a ½ inch rebar found; thence,
3. North 89° 30' 50" West, 133.10 feet; thence,
4. North 89° 30' 50" West, 133.54 feet; thence,
5. South 00° 29' 10" West, 60.00 feet; thence, leaving the aforesaid line of East Glen Road and running adjacent to the property now or formerly owned by New Birth Missionary Baptist Church, Inc., as described in a deed recorded among the Land Records of DeKalb County, Georgia in Deed Book 9684, Page 9
6. North 89° 30' 50" West, 150.00 feet; thence, running adjacent to the property now or formerly owned by DSSA Properties, LLC, as described in a deed recorded among the aforesaid Land Records in Deed Book 25272, Page 711
7. North 00° 25' 30" East, 60.00 feet; thence,
8. North 00° 25' 30" East, 1,064.01 feet; thence, running with the Southern Right of Way Line of the East Bound On-Ramp of Interstate 20
9. 326.11 feet along the arc of a curve deflecting to the left, having a radius of 1,509.18 feet and a chord bearing and distance of North 86° 08' 58" East, 325.47 feet to a concrete right of way monument found; thence,
10. North 77° 54' 17" East, 355.47 feet to a concrete right of way monument found; thence,
11. South 77° 20' 02" East, 147.02 feet to a ½ inch rebar found (disturbed); thence, leaving the aforesaid line of the Interstate 20 On-Ramp and running
12. South 00° 45' 50" West, 1,184.12 feet to the Point of Beginning, containing 914,039 square feet or 20.9834 acres of land, more or less.

Property is subject to all easements and rights of way recorded and unrecorded.

# PROPERTY DESCRIPTION

Being all that tract or parcel of land lying and being in the City of Stonecrest, within Land Lots 106 & 119, 16th District, DeKalb County, Georgia and being more particularly described as follows:

To find the Point of Beginning, commence at the intersection of the approximate centerline of Evans Mill Road and the Northeasterly Right of Way Line of East Glen Road (an apparent 60 feet wide right of way); thence, leaving said centerline and running with the said line of East Glen Road, +/- 733 feet to a ½ inch rebar found, said point being at State Plane Coordinate (Georgia West Zone) of North: 1,345,423.27; East 2,308,608.70; thence, leaving the said point and continuing with the said line of East Glen Road, 308.67 feet along the arc of a curve deflecting to the left, having a radius of 962.40 feet and a chord bearing and distance of North 80° 19' 32" West, 307.35 feet; thence, North 89° 30' 50" West, 88.19 feet to a ½ inch rebar found; thence, North 89° 30' 50" West, 133.10 feet; thence, North 89° 30' 50" West, 133.54 feet; thence, South 00° 29' 10" West, 60.00 feet; thence, leaving the aforesaid line of East Glen Road and running adjacent to the property now or formerly owned by New Birth Missionary Baptist Church, Inc., as described in a deed recorded among the Land Records of DeKalb County, Georgia in Deed Book 9684, Page 9, North 89° 30' 50" West, 150.00 feet to the True Point of Beginning of the herein described tract or parcel of land; thence, leaving the said Point of Beginning and continuing adjacent to the property of New Birth Missionary Baptist Church, Inc.

1. North 89° 24' 27" West, 406.07 feet to a point on the East Right of Way Line of Lithonia Industrial Boulevard (a variable width right of way), as created by Georgia Department of Transportation Project No. CSSTP-0006-00 (889), and described in a deed recorded among the aforesaid Land Records in Deed Book 25534, Page 560; thence, running with the said line of Lithonia Industrial Boulevard
2. North 01° 04' 04" East, 36.22 feet to a concrete right of way monument found; thence,
3. North 37° 29' 58" West, 60.86 feet to a concrete right of way monument found; thence,
4. 71.18 feet along the arc of a curve deflecting to the left, having a radius of 3,029.99 feet and a chord bearing and distance of North 09° 07' 32" East, 71.17 feet to a concrete right of way monument found; thence,
5. South 81° 32' 50" East, 26.00 feet to a concrete right of way monument found; thence,
6. North 08° 15' 38" East, 20.51 feet to a concrete right of way monument found; thence,
7. North 60° 35' 08" West, 27.93 feet to a concrete right of way monument found; thence,
8. 133.24 feet along the arc of a curve deflecting to the left, having a radius of 3,029.99 feet and a chord bearing and distance of North 06° 36' 58" East, 133.23 feet to a concrete right of way monument found; thence,
9. North 05° 21' 23" East, 41.46 feet to a concrete right of way monument found; thence,
10. North 11° 04' 02" East, 50.25 feet to a concrete right of way monument found; thence,
11. North 05° 21' 23" East, 32.50 feet to a concrete right of way monument found; thence,
12. North 05° 57' 12" West, 25.50 feet to a concrete right of way monument found; thence,

13. North 05° 21' 23" East, 74.00 feet to a concrete right of way monument found; thence,
14. South 84° 38' 37" East, 29.00 feet to a concrete right of way monument found; thence,
15. North 05° 21' 23" East, 33.00 feet to a concrete right of way monument found; thence,
16. North 84° 38' 37" West, 29.00 feet to a concrete right of way monument found; thence,
17. North 05° 21' 23" East, 93.00 feet to a concrete right of way monument found (disturbed); thence,
18. North 07° 55' 47" East, 178.18 feet to a concrete right of way monument found; thence,
19. North 05° 21' 23" East, 162.00 feet to a concrete right of way monument found; thence,
20. North 15° 33' 38" East, 50.80 feet to a concrete right of way monument found; thence,
21. North 05° 21' 23" East, 73.00 feet to a concrete right of way monument found; thence,
22. North 49° 13' 59" East, 28.86 feet; thence, leaving the aforesaid line of Lithonia Industrial Boulevard and running with the Southern Right of Way Line of the East Bound On-Ramp of Interstate 20
23. South 85° 28' 45" East, 226.13 feet to a concrete right of way monument found; thence,
24. 79.97 feet along the arc of a curve deflecting to the left, having a radius of 1,509.18 feet and a chord bearing and distance of South 86° 08' 32" East, 79.96 feet; thence, leaving the aforesaid line of the Interstate 20 On-Ramp and running adjacent to the property now or formerly owned by Stewart Properties, as described in a deed recorded among the aforesaid Land Records in Deed Book 20307, Page 309
25. South 00° 25' 30" West, 1,064.01 feet; thence,
26. South 00° 25' 30" West, 60.00 feet to the Point of Beginning, containing 437,678 square feet or 10.0477 acres of land, more or less.

Property is subject to all easements and rights of way recorded and unrecorded.

**TYPICAL ELEVATION (EAST)**
**VIEW FROM LITHONIA INDUSTRIAL BOULEVARD**

**ALTERNATE VIEW (EAST)**
**VIEW FROM LITHONIA INDUSTRIAL BOULEVARD**

**ALTERNATE VIEW (NORTHEAST)**
**VIEW OF OFFICE CORNER**

THE CITY OF STONECREST GEORGIA

# Property Owner(s) Notarized Certification

The owner and petitioner acknowledge that this Zoning Map Petition application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filing of the application for zoning amendment, and authorization of an applicant or agent to act on their behalf in the filing of the application including all subsequent application amendments.

**Property Owner (If Applicable)**

Signature: STEWART PROPERTIES General Partner | Date: 02/18/2021

Address: 1318 Medinah Dr. | City, State: FT MYERS, FL | Zip: 33919

Phone: 239-482-0553

Sworn to and subscribed before me this 18 day of February, 20 2021

Notary Public: Arlene M. Kaufenberg

Notary Public State of Florida
Arlene M Kaufenberg
My Commission GG 237205
Expires 10/03/2022

**Property Owner (If Applicable)**

Signature: Arlene M. Kau | Date:

Address: | City, State: | Zip:

Phone:

Sworn to and subscribed before me this_____day of_____, 20_____

Notary Public:

**Property Owner (If Applicable)**

Signature: | Date:

Address: | City, State: | Zip:

Phone:

Sworn to and subscribed before me this_____day of_____, 20_____

Notary Public:

THE CITY OF STONECREST GEORGIA

# Property Owner(s) Notarized Certification

The owner and petitioner acknowledge that this Zoning Map Petition application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filing of the application for zoning amendment, and authorization of an applicant or agent to act on their behalf in the filing of the application including all subsequent application amendments.

**Property Owner (If Applicable)**

| | | |
|---|---|---|
| Signature: (SAM STEWART) | | Date: 2/17/2021 |
| Address: 6893 MAIN ST PO BOX 408 | City, State: Lithonia, GA | Zip: 30058 |
| Phone: | | |
| Sworn to and subscribed before me this 17th day of February, 20 21 | | |
| Notary Public: | | |

**Property Owner (If Applicable)**

| | | |
|---|---|---|
| Signature: | | Date: 2/17/21 |
| Address: 3535 Timberland R | City, State: Lithonia, Ga | Zip: 30655 |
| Phone: 770-482-8841 | | |
| Sworn to and subscribed before me this _____ day of _____, 20_____ | | |
| Notary Public: | | |

**Property Owner (If Applicable)**

| | | |
|---|---|---|
| Signature: | | Date: |
| Address: | City, State: | Zip: |
| Phone: | | |
| Sworn to and subscribed before me this _____ day of _____, 20_____ | | |
| Notary Public: | | |

FRANK J PARKER NOTARY PUBLIC WALTON COUNTY GEORGIA MY COMMISSION EXPIRES AUGUST 04, 2024

THE CITY OF STONECREST GEORGIA

# Applicant/Petitioner Notarized Certification

Petitioner states under oath that: (1) he/she is the executor or Attorney-In-Fact under a Power-of- Attorney for the owner (attach a copy of the Power-of-Attorney letter and type name above as "Owner"); (2) he/she has an option to purchase said property (attach a copy of the contract and type name of owner above as "Owner"); (3) he/she has an estate for years which permits the petitioner to apply (attach a copy of lease and type name of owner above as "Owner").

| | | | |
|---|---|---|---|
| Applicant / Petitioner | Signature: | | Date: 3/1/2021 |
| | Address: 3715 Davinci Ct, Suite 300 | City, State: Peachtree Corners, GA | Zip: 30092 |
| | Phone: (770) 717-3220 | | |
| | Sworn to and subscribed before me this 1st day of March, 20 21 | | |
| | Notary Public: Bonnie L Catanach | | |
| Attorney / Agent | Signature: | | Date: |
| | Address: | City, State: | Zip: |
| | Phone: | | |
| | Sworn to and subscribed before me this_____day of_____, 20_____ | | |
| | Notary Public: | | |

BONNIE L CATANACH NOTARY PUBLIC EXPIRES GEORGIA AUG. 30, 2023 JACKSON COUNTY

# PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this **"Agreement"**) is made and entered into as of the 11th day of November, 2020 (the **"Effective Date"**), by and between STEWART PROPERTIES, LP, a Georgia limited partnership (hereinafter called **"Seller"**), and DUKE REALTY LIMITED PARTNERSHIP, an Indiana limited partnership (hereinafter called **"Buyer"**).

W I T N E S S E T H:

FOR AND IN CONSIDERATION of the Earnest Money (as hereinafter defined), the covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Purchase and Sale. Seller agrees to sell, and Buyer agrees to purchase that certain real property located along the east side of Lithonia Industrial Boulevard, south of the access road that runs parallel to Interstate I-20, in the City of Stonecrest, Dekalb County, Georgia, containing approximately 20.983 acres and being more particularly described or depicted on **Exhibit A** attached hereto and made a part hereof, together with all of Seller's right, title and interest in and to all easements, utility reservations, rights of way, strips and gores of land, mineral rights, water and water rights, wells, well rights and permits, water and sewer taps, sanitary or storm sewer capacity or reservations, rights under utility agreements with any applicable governmental or quasi-governmental entities or agencies with respect to the providing of utility services to such real property, tenements, hereditaments, privileges, licenses and appurtenances, reversions and remainders in any way belonging, remaining or appertaining thereto and together with all improvements, fixtures, personal property, trees, timber, or other crops and plants and minerals located thereunder or thereon (hereinafter collectively referred to as the **"Property"**).

2. Purchase Price, Method of Payment. The purchase price for the Property (hereinafter called the **"Purchase Price"**) shall be [redacted] The Purchase Price shall be paid by Buyer to Seller on the Closing Date (as hereinafter defined) after crediting the Earnest Money, and subject to the prorations and adjustments hereinafter described, by wire transfer or other immediately available funds reasonably acceptable to Seller.

3. Earnest Money. Within two (2) business days following the Effective Date, Buyer shall deliver to First American Title Insurance Company, Chicago National Commercial Services, 30 North LaSalle Street, Suite 2700, Chicago, Illinois 60602, Attn: Steve Zellinger (hereinafter called **"Escrow Agent"**) a good faith earnest money deposit of [redacted] (said deposit, together with all interest earned thereon, being hereinafter called the **"Earnest Money"**), which Earnest Money shall be held and disbursed by Escrow Agent in accordance with the terms and conditions of this Agreement and the terms and conditions set forth in that certain Escrow Agreement to be executed by Seller, Buyer and Escrow Agent contemporaneously herewith, the form of which is attached hereto as **Exhibit B** and made a part hereof. Within three (3) business days after the expiration of the Inspection Period (as hereinafter defined), Buyer shall deposit with Escrow Agent an additional [redacted] (the **"Additional Deposit"**). The Additional Deposit, together with all interest earned thereon, shall be deemed a part of the Earnest Money for all purposes under

this Agreement. On the Closing Date, the Earnest Money shall be applied as part payment of the Purchase Price, in accordance with Section 2 above.

4. Title Examination and Objections.

(a) Seller shall convey good, marketable and insurable fee simple title to the Property to Buyer, free and clear of all liens and encumbrances, subject only to (i) the lien of taxes not yet due and payable, (ii) all matters revealed by the Survey (as hereinafter defined), if any, and waived or not timely objected to by Buyer pursuant to this Section 4, (iii) all matters set forth in the Title Commitment (as hereinafter defined) and waived or not timely objected to by Buyer pursuant to this Section 4, and (iv) any other matters of title to which Buyer shall expressly consent in writing (each hereinafter called a **"Permitted Exception"** and collectively, the **"Permitted Exceptions"**).

(b) Buyer shall have until five (5) business days prior to the expiration of the Inspection Period (as hereinafter defined) in which to examine title to the Property, obtain a commitment for an owner's policy of title insurance (hereinafter called the **"Title Commitment"**), and in which to give Seller written notice of any objections that Buyer may have (the **"Title Objection Notice"**). If Buyer fails to deliver the Title Objection Notice to Seller by such date, Buyer shall be deemed to have waived such right to object to any title exceptions or defects.

(c) Seller shall have ten (10) business days following Buyer's delivery of the Title Objection Notice in which to review said objections, and to give Buyer notice whether Seller will attempt to cure any objections specified in Buyer's Title Objection Notice (the **"Title Response Notice"**). If Seller fails to deliver the Title Response Notice within said ten (10) business-day period, or if Seller notifies Buyer in the Title Response Notice that Seller does not intend to attempt to cure any or all of Buyer's objections set forth in the Title Objection Notice, then Buyer shall have the right, at Buyer's option, to terminate this Agreement by giving notice to Seller within ten (10) business days thereafter, in which event the Earnest Money shall be refunded to Buyer promptly upon request, all rights and obligations of the parties hereunder shall expire (except for those which expressly survive any such termination) and this Agreement shall be of no further force or effect. If Buyer fails to terminate this Agreement within the time limit specified above, Buyer shall be deemed to have waived any objections specified in the Title Objection Notice that Seller has not expressly agreed to cure.

(d) Buyer may re-examine title to the Property up to and including the Closing Date and give Seller notice of any additional objections appearing of record subsequent to the effective date of the Title Commitment, but Buyer's failure to specify in its initial notice of objections any objection appearing of record as of the effective date of the Title Commitment shall be deemed to be and shall constitute a waiver of any such objection.

(e) Seller shall have until the Closing Date to satisfy all objections that Seller has expressly agreed to satisfy pursuant to this Section 4, and, if Seller fails to so satisfy such objections, then, at the option of Buyer, Buyer may (i) terminate this Agreement, in which event the Earnest Money shall be refunded to Buyer promptly upon request, all rights and obligations of the parties hereunder shall expire (except for those which expressly survive such termination) and this Agreement shall be of no further force or effect or (ii) waive such satisfaction and performance and elect to close, and all objections so waived shall thereafter constitute Permitted Exceptions under this Agreement; or (iii) extend the Closing Date for a period of up to ten (10) business days, during which time Seller shall cure such title objections.

(f) Notwithstanding any other provision of this Agreement to the contrary, Seller shall, prior to the Closing Date, satisfy, cure or cause to be released (or bonded off of the Property at Seller's election) (i) all materialmen's and mechanic's liens affecting the Property and arising out of work done for or on behalf of Seller, (ii) the lien and interest of any other person or any other entity securing a loan to Seller (if any), and (iii) any judgment lien against Seller which attaches to the Property prior to the Closing Date (if any). Seller's failure to satisfy the specific items listed in the previous sentence shall be an event of default by Seller under Section 12 of this Agreement with respect to which Buyer shall be entitled to (A) pursue its remedies under Section 12 of this Agreement or (B) close on the purchase and sale of the Property contemplated herein and accept the Property subject to such items after reducing the Purchase Price by the amount of such uncured items.

(g) Seller hereby covenants that it shall not voluntarily transfer, sell, assign, encumber, lease, hypothecate or otherwise dispose of any or all of its right, title and interest in and to the Property nor consent to the creation of any easement affecting the Property, during the existence of this Agreement, without the prior consent of Buyer.

5. Survey. Buyer may, at Buyer's expense, cause a survey of the Property to be made by a surveyor registered and licensed in the jurisdiction in which the Property is located (hereinafter called the **"Survey"**). Buyer shall deliver a copy of the Survey promptly to Seller. Any matters shown on the Survey and objected to by Buyer shall be included by Buyer in the Title Objection Notice and the rights and obligations of Buyer and Seller with respect thereto shall be the same as provided in Section 4 above.

6. Inspection by Buyer.

(a) Buyer shall have until Closing for Buyer and Buyer's agents and designees to enter upon the Property at reasonable times for the purposes of inspecting the Property, and making such surveys, soil tests, engineering studies and other investigations and inspections as Buyer may reasonably desire to assess the condition of the Property; provided, however, that Buyer shall conduct such activities in a manner that will not harm or damage the Property and agrees to restore the Property substantially to its condition prior to any such activities immediately after conducting the same. Buyer shall indemnify and hold Seller harmless from and against any and all liabilities, damages, losses, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses of Seller actually incurred) suffered, incurred or sustained by Seller as a result of, by reason of or in connection with the entry by Buyer or Buyer's agents and designees onto the Property or the activities of such parties on the Property, which indemnity shall survive the Closing (as hereinafter defined) or any earlier termination of this Agreement.

(b) Commencing as of the Effective Date and continuing through and including 11:59 p.m. in the geographic area in which the Property is located on the ninetieth ($90^{th}$) day following the Effective Date (hereinafter called the **"Inspection Period"**), if for any reason whatsoever Buyer determines that the Property is not satisfactory, then Buyer may terminate this Agreement by delivering notice of such termination to Seller. If Buyer fails to give such notice of termination as aforesaid, Buyer shall be deemed to have waived its rights under this Section, and this Agreement shall remain in full force and effect. In the event Buyer delivers such notice of termination on or before the expiration of the Inspection Period, the Earnest Money shall be returned to Buyer and neither party hereunder shall have any further rights, liabilities, or obligations, hereunder, except for those matters contained herein which expressly survive such termination.

(c) Within ten (10) business day following the Effective Date, Seller shall deliver to Buyer copies of the following items relative to the Property (to the extent such items are in Seller's possession):

environmental audit or engineering reports; soil compaction and composition reports; documentation of existence of any delineated wetlands or lack thereof; title insurance policies; tax bills affecting the Property (or any portion thereof) for the past three years; any permits affecting the Property; evidence of zoning and any conditions of development imposed upon the Property; and existing boundary and topography surveys (collectively, the **"Seller Information"**).

(d) Notwithstanding anything to the contrary set forth herein, Buyer's obligation to close on the purchase of the Property is expressly contingent on Buyer having determined that the Property is, or will be, successfully and finally rezoned to accommodate Buyer's intended development of the Property, subject only to special conditions, impact fees, impositions or other similar items acceptable to Buyer, with all appeal periods having expired without any appeals having been filed, or if any such appeals have been so filed, with all such appeals having been denied or otherwise disposed of to Buyer's satisfaction (collectively, the **"Rezoning"**). Buyer shall have the right to pursue and obtain the Rezoning (and Buyer shall use diligent, good faith efforts to obtain the Rezoning) during the term of this Agreement; provided, however, that Buyer shall submit its initial application for Rezoning not later than March 2, 2021, in order to be placed on the March 2021 zoning calendar. Seller agrees, at no expense to Seller, to fully cooperate with Buyer as reasonably necessary in connection with Buyer's efforts to obtain the Rezoning, including, without limitation, execution of any required applications or consents. In the event that, despite Buyer's diligent, good faith efforts, Buyer is unable to obtain the Rezoning including any postponement or appeal on or before June 1, 2021 (the **"Outside Date"**), Buyer, at Buyer's option, may elect, by notice to Seller and Escrow Agent on or before the Outside Date, to (i) terminate this Agreement, in which event the Earnest Money shall be refunded to Buyer promptly upon request, all rights and obligations of the parties hereunder shall expire and this Agreement shall be of no further force or effect, except with respect to any provisions that expressly survive termination, or (ii) waive the contingency set forth in this Section 6(d) and consummate the purchase of the Property as set forth herein. If Buyer fails to deliver such notice on or before the Outside Date, Buyer shall be deemed to have elected option (ii).

(e) In the event Buyer terminates the Agreement pursuant to this Section 6, Buyer agreed to deliver to Seller, without representation or warranty of any kind, copies of any third party surveys and environmental reports obtained by Buyer in connection with the Property.

7. Conditions to Closing. Buyer's obligation to purchase the Property shall be expressly conditioned upon the following conditions, any or all of which Buyer may waive by written notice only:

(a) There shall be no material adverse change in the condition of or affecting the Property not caused by Buyer between the time of Buyer's inspection of the Property prior to the expiration of the Inspection Period and the Closing Date, including, but not limited to (i) environmental contamination, (ii) access, (iii) the availability, adequacy and cost (other than Buyer's construction costs) of or for all utilities that will be necessary to serve Buyer's proposed development (including impact fees and "tap-in" fees), and (iv) any moratorium in place or threatened which would restrict or prevent Buyer from starting and continuing construction on Buyer's proposed project within ninety (90) days after the Closing Date;

(b) The willingness of Escrow Agent (**"Title Insurer"**) to issue, on the Closing Date, upon the sole condition of the payment of an amount no greater than its regularly scheduled premium, its standard ALTA form owner's policy of title insurance, insuring in the amount of the Purchase Price that title to the Property is vested of record in Buyer on the Closing Date, subject only to the Permitted Exceptions;

(c) Seller's representations and warranties contained herein shall be true and correct as of the date of this Agreement and the Closing Date. For purposes herein, a representation shall be false if the

factual matter that is the subject of the representation is false notwithstanding any lack of knowledge or notice to the party making the representation; and

(d) Buyer's purchase, on or prior to Closing, of that certain parcel of land lying near or adjacent to the Property, as outlined on Exhibit A-1 and owned by DSSA Properties LLC attached hereto and made a part hereof (**"Additional Lot"**).

If any of the foregoing conditions is not satisfied or waived in writing by Buyer, Buyer may, but shall not be obligated to, elect at its option, by notice to Seller, either to: (x) terminate this Agreement, in which event the Earnest Money shall be returned to Buyer, and the parties hereto shall have no further rights or obligations hereunder, except for those which expressly survive such termination; or (y) close without regard to the failure of such condition. The foregoing election is not intended to be in derogation of, but shall be in addition to, Buyer's remedies for Seller's default hereunder, and does not negate, modify or amend the representations, warranties and post-closing covenants of Seller contained herein, which representations, warranties and post-closing covenants shall survive the Closing (as hereinafter defined) as herein provided.

8. Closing. The closing of the purchase and sale of the Property contemplated hereunder (hereinafter called the **"Closing"**) shall occur by mail, through the offices of Escrow Agent, on a date (hereinafter called the **"Closing Date"**) selected by Buyer and reasonably acceptable to Seller that is on or before the fifteenth (15th) day after the Rezoning occurs. Seller and Buyer agree to execute such reasonable additional and supplemental escrow instructions as may be appropriate to enable Escrow Agent to comply with the terms of this Agreement; provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall control. On the Closing Date, the purchase and sale contemplated hereunder shall take place as follows, subject to all the terms and conditions of this Agreement:

(a) Seller shall execute and/or deliver (as applicable) the following documents with respect to the Property:

(i) A Limited Warranty Deed, subject only to the Permitted Exceptions, and with a legal description based on Seller's vesting deed; provided, however, if the Property is a subdivided lot, the legal description shall be based on the subdivision plat, and provided further that if the Property is not based on a subdivision plat and the vesting deed includes property in addition to the Property, then the legal description shall be based on the Survey.

(ii) An owner's affidavit in a form satisfactory to enable Escrow Agent [to delete the standard preprinted exceptions from Buyer's title insurance policy;

(iii) A closing statement itemizing and approving all receipts and disbursements made in connection with the Closing;

(iv) A Certification of Non-Foreign Status pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended;

(v) An affidavit affirming that Seller is a Georgia resident for taxation purposes;

(vi) Evidence of Seller's authority to convey the Property;

(vii) A 1099-S or a 1099-S Information Sheet for reporting purposes next year;

(viii) A broker lien waiver from any broker engaged by Seller in connection with the contemplated transaction;

(ix) Any other documents reasonably requested by Buyer or Escrow Agent to consummate the transaction contemplated by this Agreement.

(b) Buyer shall pay the Purchase Price to Seller, in accordance with Section 2 of this Agreement and deliver to Closing a counterpart of the closing statement, together with any other documents reasonably requested by Seller or Escrow Agent to consummate the contemplated purchase and sale.

(c) All city, state and county ad valorem taxes and similar taxes and assessments levied or imposed upon or assessed against the Property for the calendar year during which the Closing Date occurs shall be prorated as of the Closing Date, with all such amounts relating to any prior calendar years to be paid by Seller, or credited to Buyer, at Closing. If the actual taxes for the calendar year during which the Closing Date occurs are not known on the Closing Date, the proration shall be based upon the acreage involved and the actual taxes for the immediately preceding calendar year, and Buyer and Seller shall adjust the proration at such time as the actual taxes for the calendar year during which the Closing Date occurs are billed. The preceding sentence shall survive Closing.

(d) Each party shall be responsible for the payment of its respective legal fees, if any, incurred in connection with the closing of the transaction contemplated herein. Seller shall pay any brokerage commission(s) owed pursuant to Section 15 hereof. All other costs and expenses of the transaction contemplated hereby, including, without limitation, all recording fees, any real estate transfer tax and/or documentary stamp tax payable on the transfer of the Property, the cost of the Survey, the premium for any owner's policy of title insurance issued in favor of Buyer, the cost to prepare all closing documents (provided, however, that Seller shall not pay any legal or attorney's fees incurred in connection with the negotiation of any such closing documents by Seller), and any escrow fees shall be borne by Buyer. Any other items which are customarily prorated in connection with the purchase and sale of properties similar to the Property shall be prorated as of the Closing Date.

(e) Seller shall surrender possession of the Property to Buyer on the Closing Date.

9. Seller's Representations and Warranties. Seller represents and warrants to Buyer that:

(a) Seller has been duly organized and is validly existing and in good standing in the jurisdiction of its formation, and is qualified to do business in the state in which the Property is located. Seller has the lawful right, power, authority and capacity to sell the Property in accordance with the terms, provisions and conditions of this Agreement;

(b) There is no agreement to which Seller is a party or by which to Seller's knowledge Seller is bound that is in conflict with this Agreement;

(c) Seller is the sole owner of the Property, and no party other than Seller has or claims any unrecorded or undisclosed legal or equitable interest therein;

(d) Seller has not received any notice of pending or threatened claims, condemnations, planned public improvements, annexation, special assessments, rezoning or other adverse claims affecting the Property;

(e) Seller represents and warrants that neither Seller nor, to the best of Seller's knowledge, any previous owner of the Property has used, generated, stored, released or disposed of any Hazardous Substances, as hereinafter defined, on the Property. Seller shall comply with all laws, governmental standards and regulations applicable to Seller and/or to the Property in connection with occupational, health and safety Hazardous Substances and environmental matters prior to Closing. No notification of release of a Hazardous Substance has been filed as to the Property, and Seller shall promptly notify Buyer of Seller's receipt of any notice of any violation of any such law, standards or regulations;

As used herein, the term "Hazardous Substances" means any toxic or hazardous waste or substances, including, without limitation, asbestos, PCBs, petroleum, substances defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 1802 et seq., The Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. Section 2601 et seq., or any other applicable local, state or federal environmental statutes;

(f) Seller has no knowledge of the Property having been previously used as a landfill;

(g) Seller has no knowledge of the existence of any underground storage tanks on the Property;

(h) Seller will pay or cause to be paid promptly when due, all city, state and county ad valorem taxes and similar taxes and assessments, all sewer and water charges and all other governmental charges levied or imposed upon or assessed against the Property prior to the Closing Date; and

(i) Seller is currently in compliance with and shall at all times during the term of this Agreement remain in compliance with the regulations of the Office of Foreign Assets Control **("OFAC")** of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Person List) and any statute, executive order (including the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

The foregoing representations are true, correct and complete, and the foregoing warranties are in full force and effect and binding on Seller, as of the date hereof, and shall be true and correct and in full force and effect, as the case may be, and deemed to have been reaffirmed and restated by Seller as of the date and time of the Closing, shall survive the Closing and shall not be deemed merged into any instrument of conveyance delivered at the Closing, and shall inure to the benefit of and be enforceable by Buyer, its successors and assigns.

10. Buyer's Representations and Warranties.

(a) Buyer does hereby represent and warrant to Seller as of the date of this Agreement and the Closing Date that it is a validly formed limited partnership under the laws of Indiana; that it is in good standing in the state of its organization and qualified to do business in the jurisdiction in which the Property is located; that it is not subject to any involuntary proceeding for the dissolution or liquidation thereof; that it has all requisite authorization to enter into this Agreement with Seller and to consummate the transaction

contemplated hereby; and that the parties executing this Agreement on behalf of Buyer are duly authorized to do so; and

(b) Buyer is currently in compliance with and shall at all times during the term of this Agreement remain in compliance with the regulations of OFAC (including those named on OFAC's Specially Designated and Blocked Person List) and any statute, executive order (including the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

11. Condemnation. In the event of a taking of all or any part of the Property by eminent domain proceedings prior to the Closing Date, Buyer may, at its option, terminate this Agreement by giving notice to Seller within ten (10) days after Seller gives Buyer notice of such taking or by the Closing Date, whichever is earlier, in which event the Earnest Money shall be refunded to Buyer promptly upon request, all rights and obligations of the parties hereunder shall expire (except for those which expressly survive any such termination), and this Agreement shall be of no further force or effect. If Buyer does not elect to terminate this Agreement pursuant to this Section 11, this Agreement shall remain in full force and effect and the Purchase Price shall not be reduced, but at Closing, Seller shall assign to Buyer all rights of Seller in and to any awards or other proceeds payable by reason of any taking with respect to the Property.

12. Remedies.

(a) Except as otherwise expressly set forth herein, in the event of (i) a default by Buyer under any provision of this Agreement other than Section 8 that is not cured within five (5) days following notice from Seller, or (ii) a default by Buyer under Section 8 of this Agreement, the Earnest Money shall be retained by Seller as full liquidated damages for such default, whereupon this Agreement shall terminate and the parties shall have no further rights or obligations hereunder except for those which expressly survive any such termination. The parties acknowledge that Seller's actual damages in the event of a default by Buyer hereunder would be difficult to ascertain, and that such liquidated damages represent the parties' best estimate of such damages. The parties expressly acknowledge that such liquidated damages are not intended as a penalty, but as full liquidated damages, in the event of Buyer's default and as consideration for Seller's taking the Property off the market during the term of this Agreement. The right of Seller to receive such liquidated damages shall be the sole and exclusive damage remedy of Seller hereunder (and Seller shall not have a right of specific performance).

(b) In the event of (i) a default by Seller under any provision of this Agreement other than Section 8 that is not cured within ten (10) business days following notice from Buyer, or (ii) a default by Seller under Section 8 of this Agreement, Buyer's remedies hereunder shall be as follows: (A) Buyer may terminate this Agreement, in which event Seller shall reimburse Buyer for Buyer's third party out of pocket expenses actually incurred in connection with the Property promptly following Seller's receipt of reasonable evidence of such costs, and thereafter any and all rights and obligations of the parties under this Agreement shall expire (except for those which expressly survive any such termination), the Earnest Money shall be returned promptly to Buyer, and this Agreement shall be of no further force or effect; or (B) Buyer may sue Seller for specific performance of this Agreement or seek any other remedies available to Buyer at law or in equity.

13. Parties/Assignment. This Agreement shall be binding upon and enforceable against, and shall inure to the benefit of, Buyer and Seller and their respective legal representatives, successors and permitted assigns. Seller shall not assign this Agreement, in whole or in part, without the prior written approval of Buyer, which consent may be withheld in Buyer's sole discretion. Buyer shall not, without the prior written consent of Seller (such consent not to be unreasonably withheld, conditioned or delayed),

assign any of Buyer's rights hereunder or any part thereof to any person, firm, partnership, corporation or other entity; provided, however, Buyer may assign this Agreement in whole or in part to any subsidiary or other corporation affiliated with Buyer qualified to do business in the jurisdiction in which the Property is located, without the prior written approval of Seller. Any permitted assignee shall assume all of the duties, obligations and liabilities of assignor under this Agreement. In the event of any such permitted assignment, assignor shall not be relieved of its duties and obligations hereunder. The assignor and the assignee shall be jointly and severally liable.

14. Notice. Any notices, requests, demands, tenders and communications hereunder shall be in writing and may be served (i) by hand delivery (ii) by depositing same in the United States mail, addressed to the party to be notified, postage prepaid and registered or certified with receipt requested, (iii) by recognized overnight, third party prepaid courier service (such as Federal Express), or (iv) by pdf attachment to email. Any notice or other communication mailed as aforesaid shall be deemed effectively given (x) on the date of delivery if personally delivered or sent electronically, (y) on the date delivered if sent by courier service, or (z) on the date indicated on the return receipt if mailed. Either party may change its address for notices by giving notice to the other as provided below.

The addresses for notices are as follows:

If to Buyer:
Duke Realty Limited Partnership
c/o Duke Realty Corporation
Attn: Wes Hardy, Vice President
3715 Davinci Court, Suite 300
Peachtree Corners, GA 30092
Email: Wes.Hardy@dukerealty.com

With a Copy to:
Duke Realty Corporation
Attn: Tammi Parker, Vice President, Legal
3715 Davinci Court, Suite 300
Peachtree Corners, GA 30092
Email: Tammi.Parker@dukerealty.com

If to Seller:
Stewart Properties, LLC
Attn: Mr. C. Peter Siegenthaler
1318 Medinah Drive
Fort Meyers, FL 33919
Email: cps38@aol.com

15. Brokers and Commission.

(a) Except as specifically set forth in Section 15(b) hereof, Seller and Buyer each represent and warrant to the other that neither has employed, retained or consulted any broker, agent, or finder in carrying on the negotiations in connection with this Agreement or the purchase and sale referred to herein, and Seller and Buyer shall each indemnify and hold the other harmless from and against any and all claims, demands, causes of action, debts, liabilities, judgments and damages (including costs and reasonable attorneys' fees incurred in connection with the enforcement of this indemnity) which may be asserted or recovered against the indemnified party on account of any brokerage fee, commission or other compensation arising by reason of the indemnitor's breach of this representation and warranty. This subsection 15(a) shall survive the closing or any termination of this Agreement.

(b) Seller and Buyer acknowledge that Stan Williams, as agent for NAI Brannen Goddard (License Number 8125) is acting as agent for Buyer (**"Buyer's Broker"**) in connection with the sale of the Property by Seller to Buyer. In the event the Closing is consummated, Seller shall pay a commission to Buyer's Broker representing five percent (5%) of the Purchase Price. Such real estate commissions shall be paid in cash at Closing; provided, however, in the event Closing does not occur for any reason whatsoever, Seller shall not be obligated to pay any real estate commission in connection with this Agreement.

16. Modification. This Agreement supersedes all prior discussions and agreements between Seller and Buyer with respect to the purchase and sale of the Property and other matters contained herein, and contains the sole and entire understanding between Seller and Buyer with respect to the transaction contemplated hereby. This Agreement shall not be modified or amended except by an instrument in writing signed by or on behalf of Seller and Buyer.

17. Waiver. Neither the failure of either party to exercise any power given such party hereunder or to insist upon strict compliance by the other party with its obligation hereunder, nor any custom or practice of the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

18. Applicable Law. This Agreement shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State in which the Property is located.

19. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute but one and the same instrument. Electronic counterparts of this Agreement as executed by the parties shall be deemed and treated as executed originals for all purposes. No enforceable agreement shall exist between the parties unless and until this Agreement or separate counterparts hereof are signed and delivered by each of the parties hereto.

20. Time. Time is and shall be of the essence of this Agreement.

21. Captions. The captions and headings used in this Agreement are for convenience only and do not in any way restrict, modify or amplify the terms of this Agreement.

22. Deadlines. In the event any deadline arising under this Agreement shall fall on a Saturday, Sunday, or legal holiday, such deadline shall be automatically deemed to fall on the first business day immediately following such Saturday, Sunday, or legal holiday.

23. Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations, and is intended, and shall for all purposes be deemed to be, a single, integrated document setting forth all of the agreements and understandings of the parties hereto, and superseding all prior negotiations, understandings and agreements of such parties. If any term or provision of this Agreement or the application thereof to any person or circumstance shall for any reason and to any extent be held to be invalid or unenforceable, then such term or provision shall be ignored, and to the maximum extent possible, this Agreement shall continue in full force and effect, but without giving effect to such term or provision.

24. Like-Kind Exchange. Each party may consummate the purchase and sale or all or a portion of the Property as part of a so-called like kind exchange (the **"Exchange"**) pursuant to Section 1031 of the Internal Revenue Code, provided that: (a) the Closing shall not be delayed or affected by reason of the

Exchange nor shall the consummation or accomplishment of the Exchange be a condition precedent or condition subsequent to the exchanging party's obligations under this Agreement; (b) the exchanging party shall effect the Exchange through an assignment of all or a portion of this Agreement, or its rights under this Agreement to a qualified intermediary; and (c) the non-exchanging party shall not be required to take an assignment of the purchase agreement for the relinquished property or be required to acquire or hold title to any real property for purposes of consummating the Exchange. The non-exchanging party shall not by this agreement or acquiescence to the Exchange (x) have its rights under this Agreement affected or diminished in any manner or (y) be responsible for compliance with or be deemed to have warranted to the exchanging party that the Exchange in fact complies with Section 1031 of the Internal Revenue Code.

[SIGNATURES CONTAINED ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, each of Seller and Buyer has caused this Agreement to be executed and sealed by its duly authorized representatives, all as of the day and year first above written.

SELLER:

STEWART PROPERTIES, LP, a Georgia limited liability company

By _____
Name: C. Peter Siegenthaler
Title: General Partner

[SIGNATURES CONTINUED ON THE FOLLOWING PAGE]

BUYER:

DUKE REALTY LIMITED PARTNERSHIP, an Indiana limited partnership

By: Duke Realty Corporation, an Indiana corporation, its general partner

By: _____
Name: CHRIS BROWN
Title: SVP

**EXHIBIT "A"**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 106 and 119 of the 16th District of DeKalb County, Georgia, being more fully and particularly described as follows:

BEGINNING at a point marked by a rebar found on the northern right of way line of East Glen Road (having a 60-foot right of way) which point is located a distance of 692.4 feet in a northwesterly direction as measured along the northern right of way line of East Glen Road, from the intersection of the northern right of way of East Glen Road with the 80-foot right of way line of Evans Mill Road; running thence along a curve to the left bearing North 80 degrees 21 minutes 03 seconds West a chord distance of 307.35 feet, with an arc of 308.67 feet and a radius of 962.4 feet along the northern right of way line of East Glen Road to a point marked by an iron pin set; continuing thence along the north right of way line of East Glen Road North 89 degrees 32 minutes 21 seconds West a distance of 88.19 feet to a rebar found; continuing thence along the north right of way line of East Glen Road North 89 degrees 32 minutes 21 seconds West a distance of 133.10 feet to a point marked by a rebar found; continuing thence along the north right of way line of East Glen Road North 89 degrees 32 minutes 21 seconds West a distance of 133.54 feet to an iron pin set; running thence South 00 degrees 27 minutes 39 seconds West a distance of 60 feet to a point; running thence North 89 degrees 32 minutes 21 seconds West a distance of 150 feet to a point marked by an iron pin set; running thence North 00 degrees 23 minutes 59 seconds East a distance of 60 feet to a point; running thence North 00 degrees 23 minutes 59 seconds East a distance of 1064.01 feet to a point marked by an iron pin set on the southern right of way line of Interstate Highway 20; running thence along a curve to the left bearing North 86 degrees 04 minutes 27 seconds East a chord distance of 322.85 feet, with an arc of 326.11 feet and a radius of 1509.18 feet, to a point marked by a right of way monument; continuing thence along the southern right of way line of I-20 N 77 degrees 52 minutes 46 seconds East a distance of 355.47 feet to a point marked by a right of way monument; running thence South 77 degrees 21 minutes 33 seconds East a distance of 147.02 feet to a point marked by an iron pin set; running thence South 00 degrees 44 minutes 19 seconds West a distance of 1184.12 feet to a point on the northern right of way line of East Glen Road and the point of beginning.

The above-described property contains a total of 20.983 acres, being Tracts 1 and 2, as per survey for Stewart Properties dated January 18, 2006, and certified by Swinson A. Gaskins, Sr., G.R.L.S. 1620, which survey is incorporated by reference herein.

**EXHIBIT A-1**

**ADDITIONAL LOT**

**PROPERTY**

| Name | Address | Size (Ac) |
|---|---|---|
| DSSA Site | Lithonia Industrial Blvd, Stonecrest, GA | Approximately 9-Acres |

**EXHIBIT B**

**ESCROW AGREEMENT**

THIS ESCROW AGREEMENT (this "**Agreement**") is made and entered into this ____ day of _____, 20_, by and among STEWART PROPERTIES, LP, a Georgia limited partnership ("**Seller**"), DUKE REALTY LIMITED PARTNERSHIP, an Indiana limited partnership ("**Buyer**"), and FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation ("**Escrow Agent**").

WHEREAS, Seller and Buyer have entered into that certain Purchase and Sale Agreement (the "**Purchase Agreement**") dated as of the date hereof, a copy of which Escrow Agent acknowledges receiving, for the sale and purchase of that certain real property described therein. The Purchase Agreement is, by this reference, made a part hereof, and all terms used but not defined herein shall have the meanings given to such terms in the Purchase Agreement; and

WHEREAS, Buyer and Seller desire to have Escrow Agent hold the Earnest Money in escrow, as required by the Purchase Agreement and pursuant to the terms hereof.

NOW, THEREFORE, in consideration of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. Upon execution of the Purchase Agreement, Buyer shall deposit with Escrow Agent, an Earnest Money deposit of [redacted]. Within three (3) business days after the expiration of the Inspection Period (as defined in the Purchase Agreement), Buyer shall deposit with Escrow Agent an additional [redacted] which additional deposit shall be deemed a part of the Earnest Money for all purposes under this Agreement. All Earnest Money, together with any interest or other income earned thereon, shall be held, invested and disbursed pursuant to the respective terms and provisions hereof and of the Purchase Agreement.

2. Upon the Closing Date, Escrow Agent shall apply the Earnest Money, together with any accrued interest thereon, to the Purchase Price as required by the Purchase Agreement.

3. Within fifteen (15) days after written notification from both Buyer and Seller that the sale contemplated by the Purchase Agreement shall not take place, Escrow Agent shall deliver the Earnest Money as required by the Purchase Agreement.

4. Buyer and Seller hereby covenant and agree that Escrow Agent shall not be liable for any loss, cost or damage which it may incur as a result of serving as Escrow Agent hereunder, except for any loss, cost or damage arising out of Escrow Agent's gross negligence or willful misconduct. Accordingly, except as otherwise provided in this Section 4, Escrow Agent shall not incur any liability with respect to (a) any action taken or omitted to be taken in good faith upon advice of its counsel, given with respect to any questions relating to its duties and responsibilities hereunder, or (b) any action taken or omitted to be taken in reliance upon any document, including any notice of instruction provided for herein or in the Purchase Agreement, not only as to the due execution and the validity and effectiveness thereof, but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall in good faith believe to be genuine and to have been signed or presented by proper person or persons in conformity with the provisions of this Agreement. Buyer and Seller hereby agree to indemnify and hold harmless Escrow Agent against any and all losses, claims, damages, liabilities and expenses, including reasonable

costs of investigation and reasonable attorneys' fees and disbursements actually incurred, which may be imposed upon and incurred by Escrow Agent in connection with its serving as Escrow Agent hereunder. In the event of a dispute between Buyer and Seller, Escrow Agent shall be entitled to tender unto the registry or custody of any court of competent jurisdiction in the county in which Escrow Agent's address for notice is located all money or property in Escrow Agent's hands held under the terms of this Escrow Agreement and the Purchase Agreement, together with such legal pleadings as it deems appropriate, and thereupon shall be discharged of its obligations hereunder and under the Purchase Agreement.

5. Any notice required hereunder shall be delivered to the parties and in the manner as required by the Purchase Agreement. Escrow Agent's address for notice purposes is as follows:

First American Title Insurance Company
Chicago National Commercial Services
30 North LaSalle Street, Suite 2700
Chicago, Illinois 60602
Attn: Steve Zellinger

6. This Agreement shall be governed by and construed in accordance with the internal laws of the state in which the Property is located, without reference to the conflict of laws or choice of law provisions thereof. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

7. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute but one and the same instrument. Electronic counterparts of this Agreement as executed by the parties shall be deemed and treated as executed originals for all purposes. No enforceable agreement shall exist between the parties unless and until this Agreement or separate counterparts hereof are signed and delivered by each of the parties hereto.

IN WITNESS WHEREOF, the undersigned have caused this Escrow Agreement to be duly executed as of the date first written above.

**SELLER:**

**STEWART PROPERTIES, LP,** a Georgia limited partnership

By:_____
Name: C. Peter Siegenthaler
Title: General Partner

**BUYER:**

**DUKE REALTY LIMITED PARTNERSHIP**,
an Indiana limited partnership

By: Duke Realty Corporation, an Indiana corporation, its general partner

By:_____
Name:_____
Title:_____

**ESCROW AGENT:**

**FIRST AMERICAN TITLE INSURANCE COMPANY,** a Nebraska corporation

By:_____
Name:_____
Title:_____

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**PURCHASE AND SALE AGREEMENT**

THIS PURCHASE AND SALE AGREEMENT (this **"Agreement"**) is made and entered into as of the 11th day of November, 2020 (the **"Effective Date"**), by and between DSSA PROPERTIES, LLC, a Georgia limited liability company (hereinafter called **"Seller"**), and DUKE REALTY LIMITED PARTNERSHIP, an Indiana limited partnership (hereinafter called **"Buyer"**).

WITNESSETH:

FOR AND IN CONSIDERATION of the Earnest Money (as hereinafter defined), the covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Purchase and Sale. Seller agrees to sell, and Buyer agrees to purchase that certain real property located along the east side of Lithonia Industrial Boulevard, south of the access road that runs parallel to Interstate I-20, in the City of Stonecrest, Dekalb County, Georgia, containing approximately 9 acres and being more particularly described or depicted on **Exhibit A** attached hereto and made a part hereof, together with all of Seller's right, title and interest in and to all easements, utility reservations, rights of way, strips and gores of land, mineral rights, water and water rights, wells, well rights and permits, water and sewer taps, sanitary or storm sewer capacity or reservations, rights under utility agreements with any applicable governmental or quasi-governmental entities or agencies with respect to the providing of utility services to such real property, tenements, hereditaments, privileges, licenses and appurtenances, reversions and remainders in any way belonging, remaining or appertaining thereto and together with all improvements, fixtures, personal property, trees, timber, or other crops and plants and minerals located thereunder or thereon (hereinafter collectively referred to as the **"Property"**).

2. Purchase Price, Method of Payment. The purchase price for the Property (hereinafter called the **"Purchase Price"**) shall be calculated by multiplying [redacted] by the total number of gross acres to the nearest one one-thousandth (1/1000th) of an acre as determined by the Survey to be obtained pursuant to Section 5 hereinbelow. The Purchase Price shall be paid by Buyer to Seller on the Closing Date (as hereinafter defined) after crediting the Earnest Money, and subject to the prorations and adjustments hereinafter described, by wire transfer or other immediately available funds reasonably acceptable to Seller.

3. Earnest Money. Within two (2) business days following the Effective Date, Buyer shall deliver to First American Title Insurance Company, Chicago National Commercial Services, 30 North LaSalle Street, Suite 2700, Chicago, Illinois 60602, Attn: Steve Zellinger (hereinafter called **"Escrow Agent"**) a good faith earnest money deposit of [redacted] (said deposit, together with all interest earned thereon, being hereinafter called the **"Earnest Money"**), which Earnest Money shall be held and disbursed by Escrow Agent in accordance with the terms and conditions of this Agreement and the terms and conditions set forth in that certain Escrow Agreement to be executed by Seller, Buyer and Escrow Agent contemporaneously herewith, the form of which is attached hereto as **Exhibit B** and made a part hereof. Within three (3) business days after the expiration of the Inspection Period (as hereinafter defined), Buyer shall deposit with Escrow Agent an additional [redacted] (the **"Additional Deposit"**). The Additional Deposit, together with all interest earned thereon, shall be deemed a part of the Earnest Money for all purposes under

this Agreement. On the Closing Date, the Earnest Money shall be applied as part payment of the Purchase Price, in accordance with Section 2 above.

4. Title Examination and Objections.

(a) Seller shall convey good, marketable and insurable fee simple title to the Property to Buyer, free and clear of all liens and encumbrances, subject only to (i) the lien of taxes not yet due and payable, (ii) all matters revealed by the Survey (as hereinafter defined), if any, and waived or not timely objected to by Buyer pursuant to this Section 4, (iii) all matters set forth in the Title Commitment (as hereinafter defined) and waived or not timely objected to by Buyer pursuant to this Section 4, and (iv) any other matters of title to which Buyer shall expressly consent in writing (each hereinafter called a **"Permitted Exception"** and collectively, the **"Permitted Exceptions"**).

(b) Buyer shall have until five (5) business days prior to the expiration of the Inspection Period (as hereinafter defined) in which to examine title to the Property, obtain a commitment for an owner's policy of title insurance (hereinafter called the **"Title Commitment"**), and in which to give Seller written notice of any objections that Buyer may have (the **"Title Objection Notice"**). If Buyer fails to deliver the Title Objection Notice to Seller by such date, Buyer shall be deemed to have waived such right to object to any title exceptions or defects.

(c) Seller shall have ten (10) business days following Buyer's delivery of the Title Objection Notice in which to review said objections, and to give Buyer notice whether Seller will attempt to cure any objections specified in Buyer's Title Objection Notice (the **"Title Response Notice"**). If Seller fails to deliver the Title Response Notice within said ten (10) business-day period, or if Seller notifies Buyer in the Title Response Notice that Seller does not intend to attempt to cure any or all of Buyer's objections set forth in the Title Objection Notice, then Buyer shall have the right, at Buyer's option, to terminate this Agreement by giving notice to Seller within ten (10) business days thereafter, in which event the Earnest Money shall be refunded to Buyer promptly upon request, all rights and obligations of the parties hereunder shall expire (except for those which expressly survive any such termination) and this Agreement shall be of no further force or effect. If Buyer fails to terminate this Agreement within the time limit specified above, Buyer shall be deemed to have waived any objections specified in the Title Objection Notice that Seller has not expressly agreed to cure.

(d) Buyer may re-examine title to the Property up to and including the Closing Date and give Seller notice of any additional objections appearing of record subsequent to the effective date of the Title Commitment, but Buyer's failure to specify in its initial notice of objections any objection appearing of record as of the effective date of the Title Commitment shall be deemed to be and shall constitute a waiver of any such objection.

(e) Seller shall have until the Closing Date to satisfy all objections that Seller has expressly agreed to satisfy pursuant to this Section 4, and, if Seller fails to so satisfy such objections, then, at the option of Buyer, Buyer may (i) terminate this Agreement, in which event the Earnest Money shall be refunded to Buyer promptly upon request, all rights and obligations of the parties hereunder shall expire (except for those which expressly survive such termination) and this Agreement shall be of no further force or effect or (ii) waive such satisfaction and performance and elect to close, and all objections so waived shall thereafter constitute Permitted Exceptions under this Agreement; or (iii) extend the Closing Date for a period of up to ten (10) business days, during which time Seller shall cure such title objections.

(f) Notwithstanding any other provision of this Agreement to the contrary, Seller shall, prior to the Closing Date, satisfy, cure or cause to be released (or bonded off of the Property at Seller's election) (i) all materialmen's and mechanic's liens affecting the Property and arising out of work done for or on behalf of Seller, (ii) the lien and interest of any other person or any other entity securing a loan to Seller (if any), and (iii) any judgment lien against Seller which attaches to the Property prior to the Closing Date (if any). Seller's failure to satisfy the specific items listed in the previous sentence shall be an event of default by Seller under Section 12 of this Agreement with respect to which Buyer shall be entitled to (A) pursue its remedies under Section 12 of this Agreement or (B) close on the purchase and sale of the Property contemplated herein and accept the Property subject to such items after reducing the Purchase Price by the amount of such uncured items.

(g) Seller hereby covenants that it shall not voluntarily transfer, sell, assign, encumber, lease, hypothecate or otherwise dispose of any or all of its right, title and interest in and to the Property nor consent to the creation of any easement affecting the Property, during the existence of this Agreement, without the prior consent of Buyer.

5. Survey. Buyer shall, at Buyer's expense, cause a survey of the Property to be made by a surveyor registered and licensed in the jurisdiction in which the Property is located (hereinafter called the **"Survey"**). Buyer shall deliver a copy of the Survey promptly to Seller. Any matters shown on the Survey and objected to by Buyer shall be included by Buyer in the Title Objection Notice and the rights and obligations of Buyer and Seller with respect thereto shall be the same as provided in Section 4 above. Within ten (10) business days after receipt of the Survey, Seller shall notify Buyer in writing if the Survey is not acceptable to Seller, in Seller's reasonable opinion. If no such notice is given, the Survey shall be deemed approved by Seller. In the event that Seller disapproves the Survey, Buyer and Seller shall use good faith efforts to mutually agree upon the configuration and size of the Property and any other matters objected to by Seller. If the legal description of the Property based on the Survey differs from **Exhibit A** hereto, at Buyer's option, Seller will convey the Property to Buyer pursuant to the new survey legal description of the Property by quitclaim deed.

6. Inspection by Buyer.

(a) Buyer shall have until Closing for Buyer and Buyer's agents and designees to enter upon the Property at reasonable times for the purposes of inspecting the Property, and making such surveys, soil tests, engineering studies and other investigations and inspections as Buyer may reasonably desire to assess the condition of the Property; provided, however, that Buyer shall conduct such activities in a manner that will not harm or damage the Property and agrees to restore the Property substantially to its condition prior to any such activities immediately after conducting the same. Buyer shall indemnify and hold Seller harmless from and against any and all liabilities, damages, losses, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses of Seller actually incurred) suffered, incurred or sustained by Seller as a result of, by reason of or in connection with the entry by Buyer or Buyer's agents and designees onto the Property or the activities of such parties on the Property, which indemnity shall survive the Closing (as hereinafter defined) or any earlier termination of this Agreement.

(b) Commencing as of the Effective Date and continuing through and including 11:59 p.m. in the geographic area in which the Property is located on the ninetieth (90th) day following the Effective Date (hereinafter called the **"Inspection Period"**), if for any reason whatsoever Buyer determines that the Property is not satisfactory, then Buyer may terminate this Agreement by delivering notice of such termination to Seller. If Buyer fails to give such notice of termination as aforesaid, Buyer shall be deemed to have waived its rights under this Section, and this Agreement shall remain in full force and effect. In the

event Buyer delivers such notice of termination on or before the expiration of the Inspection Period, the Earnest Money shall be returned to Buyer and neither party hereunder shall have any further rights, liabilities, or obligations, hereunder, except for those matters contained herein which expressly survive such termination.

(c) Within ten (10) business day following the Effective Date, Seller shall deliver to Buyer copies of the following items relative to the Property (to the extent such items are in Seller's possession): environmental audit or engineering reports; soil compaction and composition reports; documentation of existence of any delineated wetlands or lack thereof; title insurance policies; tax bills affecting the Property (or any portion thereof) for the past three years; any permits affecting the Property; evidence of zoning and any conditions of development imposed upon the Property; and existing boundary and topography surveys (collectively, the **"Seller Information"**).

(d) Notwithstanding anything to the contrary set forth herein, Buyer's obligation to close on the purchase of the Property is expressly contingent on Buyer having determined that the Property is, or will be, successfully and finally rezoned to accommodate Buyer's intended development of the Property, subject only to special conditions, impact fees, impositions or other similar items acceptable to Buyer, with all appeal periods having expired without any appeals having been filed, or if any such appeals have been so filed, with all such appeals having been denied or otherwise disposed of to Buyer's satisfaction (collectively, the **"Rezoning"**). Buyer shall have the right to pursue and obtain the Rezoning (and Buyer shall use diligent, good faith efforts to obtain the Rezoning) during the term of this Agreement; provided, however, that Buyer shall submit its initial application for Rezoning not later than March 2, 2021, in order to be placed on the March 2021 zoning calendar. Seller agrees, at no expense to Seller, to fully cooperate with Buyer as reasonably necessary in connection with Buyer's efforts to obtain the Rezoning, including, without limitation, execution of any required applications or consents. In the event that, despite Buyer's diligent, good faith efforts, Buyer is unable to obtain the Rezoning on or before June 1, 2021 (the **"Outside Date"**), Buyer, at Buyer's option, may elect, by notice to Seller and Escrow Agent on or before the Outside Date, to (i) terminate this Agreement, in which event the Earnest Money shall be refunded to Buyer promptly upon request, all rights and obligations of the parties hereunder shall expire and this Agreement shall be of no further force or effect, except with respect to any provisions that expressly survive termination, or (ii) waive the contingency set forth in this Section 6(d) and consummate the purchase of the Property as set forth herein. If Buyer fails to deliver such notice on or before the Outside Date, Buyer shall be deemed to have elected option (ii).

(e) In the event Buyer terminates the Agreement pursuant to this Section 6, Buyer agreed to deliver to Seller, without representation or warranty of any kind, copies of any third party surveys and environmental reports obtained by Buyer in connection with the Property.

7. Conditions to Closing. Buyer's obligation to purchase the Property shall be expressly conditioned upon the following conditions, any or all of which Buyer may waive by written notice only:

(a) There shall be no material adverse change in the condition of or affecting the Property not caused by Buyer between the time of Buyer's inspection of the Property prior to the expiration of the Inspection Period and the Closing Date, including, but not limited to (i) environmental contamination, (ii) access, (iii) the availability, adequacy and cost (other than Buyer's construction costs) of or for all utilities that will be necessary to serve Buyer's proposed development (including impact fees and "tap-in" fees), and (iv) any moratorium in place or threatened which would restrict or prevent Buyer from starting and continuing construction on Buyer's proposed project within ninety (90) days after the Closing Date;

(b) The willingness of Escrow Agent (**"Title Insurer"**) to issue, on the Closing Date, upon the sole condition of the payment of an amount no greater than its regularly scheduled premium, its standard ALTA form owner's policy of title insurance, insuring in the amount of the Purchase Price that title to the Property is vested of record in Buyer on the Closing Date, subject only to the Permitted Exceptions;

(c) Seller's representations and warranties contained herein shall be true and correct as of the date of this Agreement and the Closing Date. For purposes herein, a representation shall be false if the factual matter that is the subject of the representation is false notwithstanding any lack of knowledge or notice to the party making the representation; and

(d) Buyer's purchase, on or prior to Closing, of that certain parcel of land lying near or adjacent to the Property, as outlined on Exhibit A-1 attached hereto and made a part hereof (**"Additional Lot"**).

If any of the foregoing conditions is not satisfied or waived in writing by Buyer, Buyer may, but shall not be obligated to, elect at its option, by notice to Seller, either to: (x) terminate this Agreement, in which event the Earnest Money shall be returned to Buyer, and the parties hereto shall have no further rights or obligations hereunder, except for those which expressly survive such termination; or (y) close without regard to the failure of such condition. The foregoing election is not intended to be in derogation of, but shall be in addition to, Buyer's remedies for Seller's default hereunder, and does not negate, modify or amend the representations, warranties and post-closing covenants of Seller contained herein, which representations, warranties and post-closing covenants shall survive the Closing (as hereinafter defined) as herein provided.

8. Closing. The closing of the purchase and sale of the Property contemplated hereunder (hereinafter called the **"Closing"**) shall occur by mail, through the offices of Escrow Agent, on a date (hereinafter called the **"Closing Date"**) selected by Buyer and reasonably acceptable to Seller that is on or before the fifteenth (15th) day after the Rezoning occurs. Seller and Buyer agree to execute such reasonable additional and supplemental escrow instructions as may be appropriate to enable Escrow Agent to comply with the terms of this Agreement; provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall control. On the Closing Date, the purchase and sale contemplated hereunder shall take place as follows, subject to all the terms and conditions of this Agreement:

(a) Seller shall execute and/or deliver (as applicable) the following documents with respect to the Property:

(i) A Limited Warranty Deed, subject only to the Permitted Exceptions, and with a legal description based on Seller's vesting deed; provided, however, if the Property is a subdivided lot, the legal description shall be based on the subdivision plat, and provided further that if the Property is not based on a subdivision plat and the vesting deed includes property in addition to the Property, then the legal description shall be based on the Survey.

(ii) An owner's affidavit in a form satisfactory to enable Escrow Agent to delete the standard preprinted exceptions from Buyer's title insurance policy;

(iii) A closing statement itemizing and approving all receipts and disbursements made in connection with the Closing;

(iv) A Certification of Non-Foreign Status pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended;

(v) An affidavit affirming that Seller is a Georgia resident for taxation purposes;

(vi) Evidence of Seller's authority to convey the Property;

(vii) A 1099-S or a 1099-S Information Sheet for reporting purposes next year;

(viii) A broker lien waiver from any broker engaged by Seller in connection with the contemplated transaction;

(ix) Any other documents reasonably requested by Buyer or Escrow Agent to consummate the transaction contemplated by this Agreement.

(b) Buyer shall pay the Purchase Price to Seller, in accordance with Section 2 of this Agreement and deliver to Closing a counterpart of the closing statement, together with any other documents reasonably requested by Seller or Escrow Agent to consummate the contemplated purchase and sale.

(c) All city, state and county ad valorem taxes and similar taxes and assessments levied or imposed upon or assessed against the Property for the calendar year during which the Closing Date occurs shall be prorated as of the Closing Date, with all such amounts relating to any prior calendar years to be paid by Seller, or credited to Buyer, at Closing. If the actual taxes for the calendar year during which the Closing Date occurs are not known on the Closing Date, the proration shall be based upon the acreage involved and the actual taxes for the immediately preceding calendar year, and Buyer and Seller shall adjust the proration at such time as the actual taxes for the calendar year during which the Closing Date occurs are billed. The preceding sentence shall survive Closing.

(d) Each party shall be responsible for the payment of its respective legal fees, if any, incurred in connection with the closing of the transaction contemplated herein. Seller shall pay any brokerage commission(s) owed pursuant to Section 15 hereof. All other costs and expenses of the transaction contemplated hereby, including, without limitation, all recording fees, any real estate transfer tax and/or documentary stamp tax payable on the transfer of the Property, the cost of the Survey, the premium for any owner's policy of title insurance issued in favor of Buyer, the cost to prepare all closing documents (provided, however, that Seller shall not pay any legal or attorney's fees incurred in connection with the negotiation of any such closing documents by Seller), and any escrow fees shall be borne by Buyer. Any other items which are customarily prorated in connection with the purchase and sale of properties similar to the Property shall be prorated as of the Closing Date.

(e) Seller shall surrender possession of the Property to Buyer on the Closing Date.

9. Seller's Representations and Warranties. Seller represents and warrants to Buyer that:

(a) Seller has been duly organized and is validly existing and in good standing in the jurisdiction of its formation, and is qualified to do business in the state in which the Property is located. Seller has the lawful right, power, authority and capacity to sell the Property in accordance with the terms, provisions and conditions of this Agreement;

(b) There is no agreement to which Seller is a party or by which to Seller's knowledge Seller is bound that is in conflict with this Agreement;

(c) Seller is the sole owner of the Property, and no party other than Seller has or claims any unrecorded or undisclosed legal or equitable interest therein;

(d) Seller has not received any notice of pending or threatened claims, condemnations, planned public improvements, annexation, special assessments, rezoning or other adverse claims affecting the Property;

(e) Seller represents and warrants that neither Seller nor, to the best of Seller's knowledge, any previous owner of the Property has used, generated, stored, released or disposed of any Hazardous Substances, as hereinafter defined, on the Property. Seller shall comply with all laws, governmental standards and regulations applicable to Seller and/or to the Property in connection with occupational, health and safety Hazardous Substances and environmental matters prior to Closing. No notification of release of a Hazardous Substance has been filed as to the Property, and Seller shall promptly notify Buyer of Seller's receipt of any notice of any violation of any such law, standards or regulations;

As used herein, the term "Hazardous Substances" means any toxic or hazardous waste or substances, including, without limitation, asbestos, PCBs, petroleum, substances defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 1802 et seq., The Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., the Toxic Substance Control Act of 1976, as amended, 15 U.S.C. Section 2601 et seq., or any other applicable local, state or federal environmental statutes;

(f) Seller has no knowledge of the Property having been previously used as a landfill;

(g) Seller has no knowledge of the existence of any underground storage tanks on the Property;

(h) Seller will pay or cause to be paid promptly when due, all city, state and county ad valorem taxes and similar taxes and assessments, all sewer and water charges and all other governmental charges levied or imposed upon or assessed against the Property prior to the Closing Date; and

(i) Seller is currently in compliance with and shall at all times during the term of this Agreement remain in compliance with the regulations of the Office of Foreign Assets Control (**"OFAC"**) of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Person List) and any statute, executive order (including the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

The foregoing representations are true, correct and complete, and the foregoing warranties are in full force and effect and binding on Seller, as of the date hereof, and shall be true and correct and in full force and effect, as the case may be, and deemed to have been reaffirmed and restated by Seller as of the date and time of the Closing, shall survive the Closing and shall not be deemed merged into any instrument of conveyance delivered at the Closing, and shall inure to the benefit of and be enforceable by Buyer, its successors and assigns.

10. Buyer's Representations and Warranties.

(a) Buyer does hereby represent and warrant to Seller as of the date of this Agreement and the Closing Date that it is a validly formed limited partnership under the laws of Indiana; that it is in good standing in the state of its organization and qualified to do business in the jurisdiction in which the Property is located; that it is not subject to any involuntary proceeding for the dissolution or liquidation thereof; that it has all requisite authorization to enter into this Agreement with Seller and to consummate the transaction contemplated hereby; and that the parties executing this Agreement on behalf of Buyer are duly authorized to do so; and

(b) Buyer is currently in compliance with and shall at all times during the term of this Agreement remain in compliance with the regulations of OFAC (including those named on OFAC's Specially Designated and Blocked Person List) and any statute, executive order (including the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

11. Condemnation. In the event of a taking of all or any part of the Property by eminent domain proceedings prior to the Closing Date, Buyer may, at its option, terminate this Agreement by giving notice to Seller within ten (10) days after Seller gives Buyer notice of such taking or by the Closing Date, whichever is earlier, in which event the Earnest Money shall be refunded to Buyer promptly upon request, all rights and obligations of the parties hereunder shall expire (except for those which expressly survive any such termination), and this Agreement shall be of no further force or effect. If Buyer does not elect to terminate this Agreement pursuant to this Section 11, this Agreement shall remain in full force and effect and the Purchase Price shall not be reduced, but at Closing, Seller shall assign to Buyer all rights of Seller in and to any awards or other proceeds payable by reason of any taking with respect to the Property.

12. Remedies.

(a) Except as otherwise expressly set forth herein, in the event of (i) a default by Buyer under any provision of this Agreement other than Section 8 that is not cured within five (5) days following notice from Seller, or (ii) a default by Buyer under Section 8 of this Agreement, the Earnest Money shall be retained by Seller as full liquidated damages for such default, whereupon this Agreement shall terminate and the parties shall have no further rights or obligations hereunder except for those which expressly survive any such termination. The parties acknowledge that Seller's actual damages in the event of a default by Buyer hereunder would be difficult to ascertain, and that such liquidated damages represent the parties' best estimate of such damages. The parties expressly acknowledge that such liquidated damages are not intended as a penalty, but as full liquidated damages in the event of Buyer's default and as consideration for Seller's taking the Property off the market during the term of this Agreement. The right of Seller to receive such liquidated damages shall be the sole and exclusive damage remedy of Seller hereunder (and Seller shall not have a right of specific performance).

(b) In the event of (i) a default by Seller under any provision of this Agreement other than Section 8 that is not cured within ten (10) business days following notice from Buyer, or (ii) a default by Seller under Section 8 of this Agreement, Buyer's remedies hereunder shall be as follows: (A) Buyer may terminate this Agreement, in which event Seller shall reimburse Buyer for Buyer's third party out of pocket expenses actually incurred in connection with the Property promptly following Seller's receipt of reasonable evidence of such costs, and thereafter any and all rights and obligations of the parties under this Agreement shall expire (except for those which expressly survive any such termination), the Earnest Money shall be returned promptly to Buyer, and this Agreement shall be of no further force or effect; or (B) Buyer may sue Seller for specific performance of this Agreement or seek any other remedies available to Buyer at law or in equity.

13. Parties/Assignment. This Agreement shall be binding upon and enforceable against, and shall inure to the benefit of, Buyer and Seller and their respective legal representatives, successors and permitted assigns. Seller shall not assign this Agreement, in whole or in part, without the prior written approval of Buyer, which consent may be withheld in Buyer's sole discretion. Buyer shall not, without the prior written consent of Seller (such consent not to be unreasonably withheld, conditioned or delayed), assign any of Buyer's rights hereunder or any part thereof to any person, firm, partnership, corporation or other entity; provided, however, Buyer may assign this Agreement in whole or in part to any subsidiary or other corporation affiliated with Buyer qualified to do business in the jurisdiction in which the Property is located, without the prior written approval of Seller. Any permitted assignee shall assume all of the duties, obligations and liabilities of assignor under this Agreement. In the event of any such permitted assignment, assignor shall not be relieved of its duties and obligations hereunder. The assignor and the assignee shall be jointly and severally liable.

14. Notice. Any notices, requests, demands, tenders and communications hereunder shall be in writing and may be served (i) by hand delivery (ii) by depositing same in the United States mail, addressed to the party to be notified, postage prepaid and registered or certified with receipt requested, (iii) by recognized overnight, third party prepaid courier service (such as Federal Express), or (iv) by pdf attachment to email. Any notice or other communication mailed as aforesaid shall be deemed effectively given (x) on the date of delivery if personally delivered or sent electronically, (y) on the date delivered if sent by courier service, or (z) on the date indicated on the return receipt if mailed. Either party may change its address for notices by giving notice to the other as provided below.

The addresses for notices are as follows:

| | |
|---|---|
| If to Buyer: | Duke Realty Limited Partnership<br>c/o Duke Realty Corporation<br>Attn: Wes Hardy, Vice President<br>3715 Davinci Court, Suite 300<br>Peachtree Corners, GA 30092<br>Email: Wes.Hardy@dukerealty.com |
| With a Copy to: | Duke Realty Corporation<br>Attn: Tammi Parker, Vice President, Legal<br>3715 Davinci Court, Suite 300<br>Peachtree Corners, GA 30092<br>Email: Tammi.Parker@dukerealty.com |
| If to Seller: | DSSA Properties, LLC<br>c/o Cameron and Roberts Insurance Agency, Inc.<br>Attn: Sam Stewart<br>6893 Main Street<br>Lithonia, GA 30058<br>Email: SStewart@cameronandroberts.com |

15. Brokers and Commission.

(a) Except as specifically set forth in Section 15(b) hereof, Seller and Buyer each represent and warrant to the other that neither has employed, retained or consulted any broker, agent, or finder in carrying on the negotiations in connection with this Agreement or the purchase and sale referred to herein, and Seller and Buyer shall each indemnify and hold the other harmless from and against any and all claims, demands,

causes of action, debts, liabilities, judgments and damages (including costs and reasonable attorneys' fees incurred in connection with the enforcement of this indemnity) which may be asserted or recovered against the indemnified party on account of any brokerage fee, commission or other compensation arising by reason of the indemnitor's breach of this representation and warranty. This subsection 15(a) shall survive the closing or any termination of this Agreement.

(b) Seller and Buyer acknowledge that Stan Williams, as agent for NAI Brannen Goddard (License Number 8125) is acting as agent for Buyer (**"Buyer's Broker"**) in connection with the sale of the Property by Seller to Buyer. In the event the Closing is consummated, Seller shall pay a commission to Buyer's Broker representing five percent (5%) of the Purchase Price. Such real estate commissions shall be paid in cash at Closing; provided, however, in the event Closing does not occur for any reason whatsoever, Seller shall not be obligated to pay any real estate commission in connection with this Agreement.

16. Modification. This Agreement supersedes all prior discussions and agreements between Seller and Buyer with respect to the purchase and sale of the Property and other matters contained herein, and contains the sole and entire understanding between Seller and Buyer with respect to the transaction contemplated hereby. This Agreement shall not be modified or amended except by an instrument in writing signed by or on behalf of Seller and Buyer.

17. Waiver. Neither the failure of either party to exercise any power given such party hereunder or to insist upon strict compliance by the other party with its obligation hereunder, nor any custom or practice of the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

18. Applicable Law. This Agreement shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State in which the Property is located.

19. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute but one and the same instrument. Electronic counterparts of this Agreement as executed by the parties shall be deemed and treated as executed originals for all purposes. No enforceable agreement shall exist between the parties unless and until this Agreement or separate counterparts hereof are signed and delivered by each of the parties hereto.

20. Time. Time is and shall be of the essence of this Agreement.

21. Captions. The captions and headings used in this Agreement are for convenience only and do not in any way restrict, modify or amplify the terms of this Agreement.

22. Deadlines. In the event any deadline arising under this Agreement shall fall on a Saturday, Sunday, or legal holiday, such deadline shall be automatically deemed to fall on the first business day immediately following such Saturday, Sunday, or legal holiday.

23. Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations, and is intended, and shall for all purposes be deemed to be, a single, integrated document setting forth all of the agreements and understandings of the parties hereto, and superseding all prior negotiations, understandings and agreements of such parties. If any term or provision of this Agreement or the application thereof to any person or circumstance shall for any reason and to any extent be held to be invalid or unenforceable, then such term or

provision shall be ignored, and to the maximum extent possible, this Agreement shall continue in full force and effect, but without giving effect to such term or provision.

24. Like-Kind Exchange. Each party may consummate the purchase and sale or all or a portion of the Property as part of a so-called like kind exchange (the **"Exchange"**) pursuant to Section 1031 of the Internal Revenue Code, provided that: (a) the Closing shall not be delayed or affected by reason of the Exchange nor shall the consummation or accomplishment of the Exchange be a condition precedent or condition subsequent to the exchanging party's obligations under this Agreement; (b) the exchanging party shall effect the Exchange through an assignment of all or a portion of this Agreement, or its rights under this Agreement to a qualified intermediary; and (c) the non-exchanging party shall not be required to take an assignment of the purchase agreement for the relinquished property or be required to acquire or hold title to any real property for purposes of consummating the Exchange. The non-exchanging party shall not by this agreement or acquiescence to the Exchange (x) have its rights under this Agreement affected or diminished in any manner or (y) be responsible for compliance with or be deemed to have warranted to the exchanging party that the Exchange in fact complies with Section 1031 of the Internal Revenue Code.

[SIGNATURES CONTAINED ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, each of Seller and Buyer has caused this Agreement to be executed and sealed by its duly authorized representatives, all as of the day and year first above written.

SELLER:

DSSA PROPERTIES, LLC,
a Georgia limited liability company

By: _____
Name: SAM STEWART
Title: MANAGER

[SIGNATURES CONTINUED ON THE FOLLOWING PAGE]

BUYER:

DUKE REALTY LIMITED PARTNERSHIP, an Indiana limited partnership

By: Duke Realty Corporation, an Indiana corporation, its general partner

By: _____
Name: Curtis Brown
Title: SVP

# EXHIBIT A

## PROPERTY

| Name | Address | Size (Ac) |
|---|---|---|
| DSSA Site | Lithonia Industrial Blvd, Stonecrest, GA | Approximately 9-Acres |

**EXHIBIT A-1**

**ADDITIONAL LOT**

**PROPERTY**

| Name | Address | Size (Ac) |
|---|---|---|
| Stewart Site | Lithonia Industrial Blvd, Stonecrest, GA | Approximately 20-Acres |

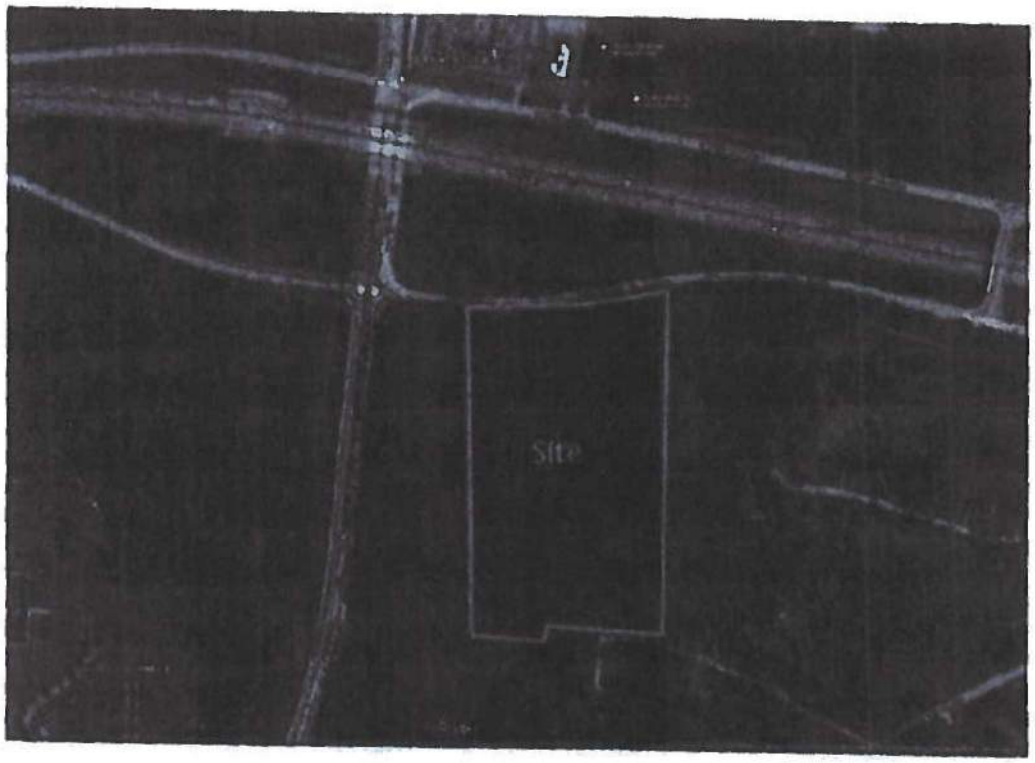

**EXHIBIT B**

**ESCROW AGREEMENT**

THIS ESCROW AGREEMENT (this "**Agreement**") is made and entered into this ____ day of _____, 2020 by and among DSSA PROPERTIES, LLC, a Georgia limited liability company ("**Seller**"), DUKE REALTY LIMITED PARTNERSHIP, an Indiana limited partnership ("**Buyer**"), and FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation ("**Escrow Agent**").

WHEREAS, Seller and Buyer have entered into that certain Purchase and Sale Agreement (the "**Purchase Agreement**") dated as of the date hereof, a copy of which Escrow Agent acknowledges receiving, for the sale and purchase of that certain real property described therein. The Purchase Agreement is, by this reference, made a part hereof, and all terms used but not defined herein shall have the meanings given to such terms in the Purchase Agreement; and

WHEREAS, Buyer and Seller desire to have Escrow Agent hold the Earnest Money in escrow, as required by the Purchase Agreement and pursuant to the terms hereof.

NOW, THEREFORE, in consideration of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. Upon execution of the Purchase Agreement, Buyer shall deposit with Escrow Agent, an Earnest Money deposit of [redacted] Within three (3) business days after the expiration of the Inspection Period (as defined in the Purchase Agreement), Buyer shall deposit with Escrow Agent an additional [redacted], which additional deposit shall be deemed a part of the Earnest Money for all purposes under this Agreement. All Earnest Money, together with any interest or other income earned thereon, shall be held, invested and disbursed pursuant to the respective terms and provisions hereof and of the Purchase Agreement.

2. Upon the Closing Date, Escrow Agent shall apply the Earnest Money, together with any accrued interest thereon, to the Purchase Price as required by the Purchase Agreement.

3. Within fifteen (15) days after written notification from both Buyer and Seller that the sale contemplated by the Purchase Agreement shall not take place, Escrow Agent shall deliver the Earnest Money as required by the Purchase Agreement.

4. Buyer and Seller hereby covenant and agree that Escrow Agent shall not be liable for any loss, cost or damage which it may incur as a result of serving as Escrow Agent hereunder, except for any loss, cost or damage arising out of Escrow Agent's gross negligence or willful misconduct. Accordingly, except as otherwise provided in this Section 4, Escrow Agent shall not incur any liability with respect to (a) any action taken or omitted to be taken in good faith upon advice of its counsel, given with respect to any questions relating to its duties and responsibilities hereunder, or (b) any action taken or omitted to be taken in reliance upon any document, including any notice of instruction provided for herein or in the Purchase Agreement, not only as to the due execution and the validity and effectiveness thereof, but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall in good faith believe to be genuine and to have been signed or presented by proper person or persons in conformity with the provisions of this Agreement. Buyer and Seller hereby agree to indemnify and hold harmless Escrow Agent against any and all losses, claims, damages, liabilities and expenses, including reasonable

costs of investigation and reasonable attorneys' fees and disbursements actually incurred, which may be imposed upon and incurred by Escrow Agent in connection with its serving as Escrow Agent hereunder. In the event of a dispute between Buyer and Seller, Escrow Agent shall be entitled to tender unto the registry or custody of any court of competent jurisdiction in the county in which Escrow Agent's address for notice is located all money or property in Escrow Agent's hands held under the terms of this Escrow Agreement and the Purchase Agreement, together with such legal pleadings as it deems appropriate, and thereupon shall be discharged of its obligations hereunder and under the Purchase Agreement.

5. Any notice required hereunder shall be delivered to the parties and in the manner as required by the Purchase Agreement. Escrow Agent's address for notice purposes is as follows:

First American Title Insurance Company
Chicago National Commercial Services
30 North LaSalle Street, Suite 2700
Chicago, Illinois 60602
Attn: Steve Zellinger

6. This Agreement shall be governed by and construed in accordance with the internal laws of the state in which the Property is located, without reference to the conflict of laws or choice of law provisions thereof. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

7. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute but one and the same instrument. Electronic counterparts of this Agreement as executed by the parties shall be deemed and treated as executed originals for all purposes. No enforceable agreement shall exist between the parties unless and until this Agreement or separate counterparts hereof are signed and delivered by each of the parties hereto.

IN WITNESS WHEREOF, the undersigned have caused this Escrow Agreement to be duly executed as of the date first written above.

**SELLER:**

DSSA PROPERTIES, LLC,
a Georgia limited liability company

By: _____
Name: SAM STEWART
Title: MANAGER

**BUYER:**

DUKE REALTY LIMITED PARTNERSHIP,
an Indiana limited partnership

By: Duke Realty Corporation, an Indiana corporation, its general partner

By:_____
Name:_____
Title:_____

**ESCROW AGENT:**

FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation

By:_____
Name:_____
Title:_____

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THE CITY OF STONECREST GEORGIA

# Applicant/Petitioner Notarized Certification

Petitioner states under oath that: (1) he/she is the executor or Attorney-In-Fact under a Power-of- Attorney for the owner (attach a copy of the Power-of-Attorney letter and type name above as "Owner"); (2) he/she has an option to purchase said property (attach a copy of the contract and type name of owner above as "Owner"); (3) he/she has an estate for years which permits the petitioner to apply (attach a copy of lease and type name of owner above as "Owner").

| | | | |
|---|---|---|---|
| Applicant / Petitioner | Signature: | | Date: |
| | Address: | City, State: | Zip: |
| | Phone: | | |
| | Sworn to and subscribed before me this_____day of_____, 20_____ | | |
| | Notary Public: | | |
| Attorney / Agent | Signature: Harold Buchly Jr. | | Date: 3/1/21 |
| | Address: 2849 PACES FERRY Rd | City, State: ATLANTA GA | Zip: 30339 |
| | Phone: 404-853-5050 | | |
| | Sworn to and subscribed before me this 1st day of March, 20 21 | | |
| | Notary Public: Ellen Jugar | | |

ELLEN JUGAR NOTARY PUBLIC Exp. Feb. 9, 2023 DEKALB COUNTY, GA

## Campaign Disclosure Statement

**Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating $250.00 or more to a member of the City of Stonecrest City Council or a member of the City of Stonecrest Planning Commission?**

☐ **Yes** ☒ **No**

| Applicant / Owner | | |
|---|---|---|
| | Signature: | J. Christopher Brown, SVP |
| | Address: | 3715 Davinci Ct, Suite 300; Peachtree Corners, GA 30092 |
| | Date: | March 1, 2021 |

If you answered yes above, please complete the following section:

| Date | Government Official | Official Position | Description | Amount |
|---|---|---|---|---|
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