

Prepared by and return to:

ACCESS EASEMENT AGREEMENT

This Access Easement Agreement (the “Agreement”) is made and entered into as of this ____ day of _____, _____ (the “Effective Date”), by and between **FLEMING INDUSTRIAL PARK, LLC**, a Florida limited liability company (“FIP”), whose address is 1635 Eagle Harbor Parkway, Fleming Island, Florida 32003, and **CLAY COUNTY**, a political subdivision of the State of Florida (“County”), whose address is P.O. Box 1366, Green Cove Springs, Florida 32043.

RECITALS

A. FIP is the owner of certain real property located in Clay County, Florida that is currently identified as Clay County Tax Parcel No. 02-05-25-008874-000-00 and that is legally described in Exhibit A attached hereto (the “FIP Parcel”).

B. The County is the owner of certain real property located in Clay County, Florida that is currently identified as Clay County Tax Parcel No. 02-05-25-008871-000-00 and that is legally described in Exhibit B attached hereto (the “County Parcel”). The County Parcel is often referred to as “Armstrong Park.”

C. FIP and the County are collectively referred to as the “Owners” and each is individually referred to as an “Owner.”

D. FIP and the County have entered into that certain Type III Development Agreement between Fleming Industrial Park, LLC and Clay County, Florida dated as of _____, 2024 and recorded in Official Records Book ___, Page ___ of the public records of Clay County, Florida (the “Development Agreement”).

E. FIP requests that the County grant to FIP certain easement rights for ingress, egress, and access as required by the Development Agreement, according to the terms and provisions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, FIP and the County agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by this reference.

2. **Grant of Access Easement.** The County hereby grants to FIP a non-exclusive easement for emergency vehicular ingress, egress, and access over and across such driveways, roadways, drive aisles, entrances, and other lanes or areas located on the County Parcel intended for passage of vehicles as may be constructed, altered, relocated, reduced, expanded, or otherwise modified from time to time by the County for use by the Clay County Public Safety Department and other public and private emergency service vehicles and personnel. The easement described in this Section 2 is appurtenant to the FIP Parcel and benefits FIP and its heirs, personal representatives, successors and assigns, and their respective licensees, invitees, permittees, customers, representatives, employees, agents, tenants, and contractors.

3. **Termination.** If the FIP Parcel shall cease to be used for the multi-family residential project as contemplated by and more particularly described in the Development Agreement, then this Agreement shall automatically terminate and be of no further force and effect. Upon such automatic termination, at the request of any Owner, the other Owner shall execute and deliver a written termination of this Agreement in recordable form, and such requesting Owner shall be entitled to record the same in the Official Records of Clay County, Florida.

4. **Reservation of Rights.** FIP acknowledges and agrees that the easement rights granted in this Agreement are non-exclusive in nature. The County hereby reserves the right to use the County Parcel for any lawful purpose not inconsistent with the grants, agreements, and covenants created by this Agreement and reserve the right to grant easements and licenses to others so long as such grants do not unreasonably interfere with the easement rights created by this Agreement.

5. **Improvements.**

(a) FIP shall construct a fire access gate at the common property line between the FIP Parcel and the County Parcel at the location depicted on Exhibit C attached hereto (the "Gate Location"), and such gate will be secured at all times with standard fire access security measures with the right to open said gate being available to the Clay County Public Safety Department and other public and private emergency services. Such fire access gate may be altered, improved, or relocated from time to time by FIP subject to County review and approval for compliance with County requirements for emergency vehicular access to the FIP Parcel, and any such relocation shall be evidenced by an amendment to this Agreement substituting Exhibit C attached hereto with the relocated Gate Location. FIP shall not allow any vehicles to park immediately adjacent to the Gate Location on the FIP Parcel in such a manner that obstructs or materially interferes with the use of the fire access gate for the provision of public and private emergency services. It will be the responsibility of FIP to maintain any fire access gate constructed on the FIP Parcel, and such fire access gate shall at all times allow the County and other public and private emergency services to access the FIP Parcel from the County Parcel at the Gate Location. FIP shall coordinate with the County with respect to improvements at the Gate Location such that the County shall not be required to modify the existing grade of the existing road within the County Parcel where said road abuts the Gate Location, unless the County agrees to said modifications. The construction of any improvements at the Gate Location shall be completed on the FIP Parcel prior to the County's issuance of the first certificate of occupancy for residential

use on the FIP Parcel. The provisions of this Section 5(a) shall be effective as of the date of the first certificate of occupancy for residential use on the FIP Parcel, and FIP shall have no obligation to construct or provide any improvements described in this Section 5(a) if there is no certificate of occupancy for residential use issued for the FIP Parcel.

(b) The County shall at all times provide and maintain a driveway, roadway, or other paved surface on the County Parcel sufficient to provide vehicular ingress, egress, and access between County Road 220 and the fire access gate at the Gate Location.

6. Representations and Warranties.

(a) FIP hereby represents and warrants that FIP owns the FIP Parcel, has the power and authority to grant the rights herein given, and no consent to or approval of this Agreement is required from any lender or other third party.

(b) The County hereby represents and warrants that the County owns the County Parcel, has the power and authority to grant the rights herein given, and no consent to or approval of this Agreement is required from any lender or other third party.

7. **Notices.** Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery, by commercial courier service (such as FedEx or UPS), or by certified mail, return receipt requested, postage prepaid, to the address of the parcel owner as reflected in the preamble of this Agreement. Any such notice shall be considered given on the date of hand delivery, the date of deposit with the commercial courier service, or the date that is three (3) business days after deposit in the United States mail. If the address of any Owner set forth in the preamble is no longer applicable, any Owner may send notices to the other Owner at the address of such Owner as reflected on the tax assessor's records for the FIP Parcel or County Parcel, as applicable.

8. **Running Benefits and Burdens.** All provisions of this Agreement, including the benefits and burdens, shall run with the title to the FIP Parcel and the County Parcel and are binding upon and inure to the benefit of the heirs, personal representatives, successors, and assigns of FIP and the County.

9. **Right to Encumber.** Any Owner that owns the FIP Parcel or the County Parcel, or any portion thereof, may encumber such Owner's parcel with a mortgage and related security documents; provided, however, any such mortgage and related security documents shall be subordinate to the easements granted in this Agreement.

10. **Governing Law.** This Agreement shall be governed by and construed under the laws of the State of Florida. Venue for any proceeding brought pursuant to this Agreement shall be in Clay County, Florida.

11. **Enforcement.** The Owners may enforce this Agreement by appropriate action and should the party prevail in litigation, it shall be entitled to recover as part of its costs its reasonable

attorneys' fees. Nothing contained herein is intended to serve as a waiver of sovereign immunity and extend the County's liability beyond the limits established in Section 768.28, Florida Statutes.

12. Severability. The invalidity or unenforceability of any one or more provisions of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement or any part of this Agreement not held to be invalid or unenforceable.

13. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Owners relating to the subject matter hereof and may not be amended, waived, or discharged, except by an instrument in writing executed by all of the Owners (or their respective successors and assigns), which written document shall be recorded in the public records of Clay County, Florida. No prior oral or written agreement shall have any force or affect whatsoever unless contained within this Agreement. The exhibits attached hereto are incorporated herein by this reference.

[remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, FIP and the County have executed this Access Easement Agreement as of the Effective Date.

WITNESSES:

Print Name: _____
Address: _____

Print Name: _____
Address: _____

FIP:

FLEMING INDUSTRIAL PARK, LLC,
a Florida limited liability company

By: _____
Name: _____
Title: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this ____ day of _____, 2024, by _____, as _____ of Fleming Industrial Park, LLC, a Florida limited liability company, on behalf of the company. Such person ☐ is personally known to me or ☐ has produced _____ as identification.

Signature of Notary Public

Print Name: _____
Notary Public, State and County aforesaid
Commission No.: _____
My Commission Expires: _____

WITNESSES:

Print Name: _____
Address: _____

Print Name: _____
Address: _____

COUNTY:

CLAY COUNTY,
a political subdivision of the State of Florida

By: _____
Name: _____
Title: _____

ATTEST:

Tara S. Green
Clay County Clerk of Court and Comptroller
Ex Officio Clerk to the Board

**STATE OF FLORIDA
COUNTY OF CLAY**

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this ____ day of _____, _____, by _____, as the Chairman of the Board of County Commissioners of Clay County, a political subdivision of the State of Florida, on behalf of the County. Such person ☐ is personally known to me or ☐ has produced _____ as identification.

Signature of Notary Public

Print Name: _____
Notary Public, State and County aforesaid
Commission No.: _____
My Commission Expires: _____

EXHIBIT A

Legal Description of the FIP Parcel

[legal description to be provided]

EXHIBIT B

Legal Description of the County Parcel

[legal description to be provided]

EXHIBIT C

The Gate Location

[survey of Armstrong with improvements with gate location labeled to be provided]