

Parcel: 85-000-01-0189.00-00000
149 E. College Ave, Spring Grove, PA 17362

Parcel: 85-000-01-0189.A0-00000
College Ave, Spring Grove, PA 17362

DECLARATION OF EXISTING EASEMENT AGREEMENT

THIS DECLARATION OF EXISTING EASEMENT, COVENANTS AND CONDITIONS AGREEMENT (“Declaration”) is made and executed as of this _____ day of _____, 2022, and which shall be effective _____, 2022 by and between **SPRING GROVE AREA SCHOOL DISTRICT** (“**Grantor**”) with an address of 100 E. College Ave, Spring Grove, PA 17362, and **FIP MASTER FUNDING XI, LLC, A DELAWARE LIMITED LIABILITY COMPANY** (“**Grantee**”), with an address of 149 E. College Ave, Spring Grove, PA 17362. Grantor and Grantee may each be referred to herein individually as a “**Party**” and collectively, as the “**Parties**”.

RECITALS

WHEREAS, Grantor is the fee owner of certain real property commonly known as College Avenue Spring Grove, PA 17352 and legally described in the attached Exhibit A (“**Grantor Property**”); and

WHEREAS, Grantee is the fee owner of certain real property commonly known as 149 E. College Ave, Spring Grove, PA 17362 and legally described in the attached Exhibit B (“**Grantee Property**”); and

WHEREAS, Grantor and Grantee wish to declare and affirm the existing perpetual vehicular and pedestrian ingress and egress rights appurtenant to and benefitting the Grantee Property upon, over, across, through, and along the Grantor Property; and

WHEREAS, Grantor and Grantee are now entering into this Easement in furtherance of all of the foregoing.

AGREEMENT

NOW, THEREFORE, in consideration of One and NO/100 Dollars (\$1.00) and in consideration for the mutual conditions, covenants and agreements hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Recitals**. The Recitals set forth above are a material part of this Declaration and are incorporated herein by reference.

2. **Grant of Easement**. Grantor does hereby declare, affirm, grant and convey to Grantee for the benefit of Grantee, its successors, assigns, and any of its agents, representatives, tenants, guests, visitors, customers, patrons, employees, invitees and licensees and for the benefit of the Grantee Property, an existing perpetual, non-exclusive right and easement (which easement shall be appurtenant to the Grantee Property) upon, over, through, across and along the Grantor Property for the purposes of vehicular and pedestrian access, ingress and egress at any and all times to, from, and between the Grantor Property and the Grantee Property and to and from roadways, paths, driveways, and other improvements located at any time upon the Grantor Property or adjacent to the Grantor Property to access East College Avenue and for access and use of the Grantor Property to complete all maintenance necessary to keep the paths, driveways, roadways and other improvements used by the Grantee Property for access to East College Avenue in good condition and repair. Grantee agrees to maintain, repair, and plow the paved driveway area located on the Grantor's Property which provides access to East College Avenue from the Grantee's Property at Grantee's sole cost and expense, as further shown on Exhibit C attached hereto.

3. **Warranty of Title**. Grantor warrants it is the owner of the Grantor Property and has the right, title and capacity to declare, affirm and convey to Grantee the easements herein.

4. **No Obstruction or Interference**. The Grantor Property shall be kept open at all times for access for the benefit of the Grantee Property, and Grantor shall not construct or allow the construction of any improvement, structure, building, or other obstruction of any kind on the Grantor Property to the extent such improvement, structure, building, or other obstruction would, in Grantee's reasonable judgment, prevent, impede, or otherwise interfere with the rights granted to Grantee and the Grantee Property hereunder of ingress to and egress from the Grantor Property for the purpose of access to the public road commonly known as East College Avenue.

5. **Indemnification**. Grantor and its successors and assigns shall defend, hold harmless and indemnify Grantee and its successors and assigns from all claims, actions, demands, and liabilities arising from the use by Grantor and its successors, assigns, tenants, subtenants, agents, employees, guests and invitees of the Grantor Property. Grantee and its successors and assigns shall defend, hold harmless and indemnify Grantor from all claims, actions, demands, and liabilities arising from the use by Grantee and its successors, assigns, tenants, subtenants, agents, employees, guests and invitees, of the easement set forth herein.

6. **Costs.** Upon the occurrence of any breach or default under this Declaration by either party, the defaulting party shall be liable for and shall reimburse the non-defaulting party upon demand for all reasonable attorney's fees and costs incurred by non-defaulting party in enforcing the defaulting party's obligations under this Declaration, whether or not the non-defaulting party files legal proceedings in connection therewith.

7. **Construction.** The rule of strict construction does not apply to the declaration, affirmation, or grant of easement contained herein. This grant shall be given a reasonable construction in order that the intention of the parties to confer commercially useable rights of access, use, and enjoyment of the Easement Area to Grantee with respect to such easement shall be effectuated. The parties acknowledge that the parties and their counsel have reviewed and revised this Declaration and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Declaration or any exhibits or amendments hereto.

8. **Counterparts.** This Declaration may be executed in several counterparts, each of which shall be deemed an original. The signature of the parties hereto on this Declaration may be executed and notarized on separate pages, and when attached to this Declaration shall constitute one complete document. All exhibits referred to herein and attached hereto shall be deemed part of the Declaration.

9. **Further Assurances.** Each party agrees that it will execute and deliver such other documents and take such other action as may be reasonably requested by the other party to effectuate the purposes and intention of this Declaration.

10. **Recording.** The Declaration shall be recorded in the records of York County, Pennsylvania.

11. **Governing Law.** This Declaration shall be governed by the laws of the State of Pennsylvania without giving effect to the choice of law provisions of such state.

12. **Severability.** If any term, provision or condition contained in this Declaration shall, to any extent, be invalid or unenforceable, the remainder of this Declaration (or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision or condition of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

13. **Binding on Successors and Assigns.** This Declaration and the perpetual easement and all covenants and easements contained herein shall run with the land and shall inure to the benefit of and be binding upon the parties, their successors and assigns.

14. **Amendment.** This Declaration may only be extended, abrogated, modified, rescinded, amended or terminated in whole or in part only by a written agreement signed by the owner of the Grantor Property and the owner of the Grantee Property.

THIS DECLARATION WHICH MERELY AFFIRMS THE EXISTING AGREEMENT AS DESCRIBED HEREIN. SINCE THIS IS AN EXISTING AGREEMENT AND THERE IS NO NEW PROPERTY BEING TRANSFERRED, THIS TRANSACTION IS EXEMPT FROM TRANSFER TAX

GRANTEE:

FIP MASTER FUNDING XI, LLC,
a Delaware limited liability company

By: FIP Acquisitions II, LLC, a Delaware limited liability company, its Sole Member

By: Fundamental Income Properties, LLC, a Delaware limited liability company, its Sole Member

By: _____
Chris Burbach
Chief Executive Officer

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

Before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared Chris Burbach, with whom I am personally acquainted (or proved to me to be on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chief Executive Officer of Fundamental Income Properties, LLC, the Sole Member of FIP Acquisitions II, LLC, the Sole Member of FIP Master Funding XI, LLC, the within named Landlord, and that he as such officer, being authorized so to do, executed the within instrument for the purposes therein contained, by signing the name of FIP MASTER FUNDING XI, LLC by himself as such officer.

WITNESS my hand and Official Seal at office, this _____ day of _____, 2022.

[Affix Notary Seal]

Print Name: _____
Notary Public, State of _____
My commission expires _____
Notary ID Number: _____

THIS INSTRUMENT PREPARED BY:
Alissa N. Mitchell, Esq.
Fredrikson & Byron, P.A.
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402

UPON RECORDING, RETURN TO:

Attention: _____

EXHIBIT A

Legal Description of the Grantor Property

TRACT NO. 3: PARCEL NO. 1: BEGINNING at a point at the intersection of the North curb line of College Avenue with the East side of Butcher Alley, a twenty-five (25) feet wide public alley; and running thence along the East side of Butcher Alley, North four (04) degrees forty-one (41) minutes thirty (30) seconds East, three hundred thirty-six and fifty-two hundredths (336.52) feet to a point; thence along the same, North twenty-five (25) degrees zero (00) minutes zero (00) seconds East, five hundred twenty-five and sixty-one hundredths (525.61) feet to a point on the South side of Second Avenue; thence along the South side of Second Avenue, South fifty-nine (59) degrees forty-five (45) minutes ten (10) seconds East, four hundred ninety-eight and thirty-six hundredths (498.36) feet to a point in the centerline of a public lane; thence through the center of said lane and along Parcel No. 2 herein; South thirty-nine (39) degrees thirty-two (32) minutes thirty (30) seconds West, seven hundred forty-seven and seven tenths (747.7) feet to a point on the North curb line of College Avenue; thence along the North curb line of College Avenue, North eighty-five (85) degrees, forty-four (44) minutes ten (10) seconds West, two hundred five and zero hundredths (205.00) feet to a point on the East side of Butcher Alley and the place of BEGINNING. Containing 6.8746 acres.

Parcel: 85-000-01-0189.A0-00000

EXHIBIT B

Legal Description of the Grantee Property

ALL THAT CERTAIN tract of land situate, lying and being in the Borough of Spring Grove, York County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point at the intersection of the North curb line of College Avenue with the East side of Hosiery Alley, a sixteen (16) feet wide public alley; running thence along the North curb line of College Avenue and crossing Hosiery Alley at its most Northern extremity, North eighty-five (85) degrees forty-four (44) minutes ten (10) seconds West, two hundred thirty-eight and forty-three hundredths (238.43) feet to a point in the centerline of a public lane; thence through the center of said public lane and along Parcel No. 1, North thirty-nine (39) degrees thirty-two (32) minutes thirty (30) seconds East, seven hundred forty-seven and seven tenths (747.7) feet to a point on the South side of Second Avenue; thence along the South side of Second Avenue, South thirty-nine (39) degrees fifty-one (51) minutes ten (10) seconds East, three hundred eighty-one and twenty-five hundredths (381.25) feet to a point; thence along the same South forty-eight (48) degrees eight (08) minutes ten (10) Seconds East, one hundred ninety and eighty-four hundredths (190.84) feet to a point; thence along the same South eighteen (18) degrees fifty-three (53) minutes ten (10) Seconds East, ninety-one and sixty-nine hundredths (91.69) feet to a point on the North Side of a sixteen (16) feet wide public alley; thence along the North side of said sixteen (16) feet wide public alley, South seventy (70) degrees eleven (11) minutes twenty (20) seconds West, seven hundred seven and twenty-three hundredths (707.23) feet to a point on the East side of Hosiery Alley; thence along the East side of Hosiery Alley, North four (04) degrees seven (07) minutes fifty (50) seconds East, one hundred fifty-two and fifty-five hundredths (152.55) feet to a point on the North curb line of College Avenue and the place of BEGINNING.

Parcel: 85-000-01-0189.00-00000

EXHIBIT C

Paved Driveway Area

