

After recording return to:  
Southview, Inc.  
7211 S. 27<sup>th</sup> Street  
Lincoln, NE 68512

**COMMON DRIVES EASEMENT MAINTENANCE AGREEMENT**

609772407

This Common Drives Easement Maintenance Agreement ("Agreement") is made and entered into as of this 11<sup>th</sup> day of December, 2017, by and between Southview, Inc., a Nebraska corporation ("Southview") and Fund 51, LLC, a Nebraska limited liability company ("Fund 51").

WHEREAS, Southview is the owner of Lot 1, Block 1, North Creek 1st Addition, Lincoln, Lancaster County, Nebraska ("Lot 1"); and

WHEREAS, Fund 51 is the owner of Lot 2, Block 1, North Creek 1st Addition, Lincoln, Lancaster County, Nebraska ("Lot 2"); and

WHEREAS, Lot 1, and Lot 2 are hereinafter referred to collectively as the "Lots" and individually as a "Lot"; and

WHEREAS, the record owner of a Lot shall hereinafter be referred to as a "Lot Owner"; and

WHEREAS, as part of the North Creek 1<sup>st</sup> Addition final plat, which is filed of record with the Lancaster County Register of Deeds as Instrument No. 1999060004 ("North Creek 1<sup>st</sup> Final Plat"), 30 feet wide common access easements were granted across the Lots, and private driveways are constructed within the common access easements that provide access to and from the Lots to and from Fletcher Avenue and North 27<sup>th</sup> Street (the "Common Drives"); and

WHEREAS, as a condition to Southview's sale of Lot 2 to Fund 51, the parties agreed to enter into an agreement providing for the maintenance of the Common Drives.

NOW THEREFORE, in consideration of the above and the covenants and conditions contained herein, the parties agree as follows:

1. Repair and Maintenance of Common Drives. The Lot Owner of Lot 1 shall be responsible for insuring, maintaining, repairing, reconstructing and replacing the Common Drives in a commercially reasonable manner (collectively the "Common Drives

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Maintenance"). All costs of the Common Drives Maintenance shall be split equally between the Lot Owners of Lot 1 and Lot 2. The Lot Owner of Lot 2 shall pay the Lot Owner of Lot 1 for its fifty percent share of the Common Drives Maintenance within thirty (30) days of receipt of a written invoice and supporting documentation for said costs. The amount of the written invoice shall be a charge on Lot 2 and shall be a continuing lien upon the Lot. The amount of the written invoice shall also be the obligation of the Lot Owner of Lot 2 when the invoice fell due, and shall not pass to its successors in title unless expressly assumed by them. Any invoice not paid within thirty (30) days after receipt shall bear interest from the due date at the rate of sixteen percent (16%) per annum or the maximum rate allowed by law, whichever is less. The Lot Owner who performed the work represented by the invoice, may bring an action at law against the Lot Owner obligated to pay the same, or foreclose the lien against the Lot in Question.

If a Lot Owner of one of the Lots ("Notifying Lot Owner") determines, based upon a standard of commercial reasonableness, that all or a portion of the Common Drives located upon another Lot Owner's Lot is in need of maintenance, repair, reconstruction or replacement ("Lot in Question"), the Notifying Lot Owner shall provide a written request to the Lot Owner of the Lot in Question and the Lot Owner of the Lot in Question shall, within thirty (30) days of receipt of notice, commence to complete the work requested and diligently and with reasonable dispatch to take all steps and do all work required thereafter to complete such work. If the Lot Owner of the Lot in Question fails to commence the work requested within thirty (30) days of receiving the notice, and thereafter diligently pursue its completion, the Notifying Lot Owner may complete the work requested at the cost and expense of the Lot Owner of the Lot in Question.

Any Notifying Lot Owner who has performed maintenance, repair, reconstruction, or replacement on all or any portion of the Common Drives located upon a Lot in Question in accordance with this provision may, within a reasonable time after the completion of such work, submit to the Lot Owner of the Lot in Question a written invoice for such work with supporting documentation of such costs. The Lot Owner of the Lot in Question shall pay all such expenses within thirty (30) days of receipt of the written invoice and supporting documentation. The amount of the written invoice shall be a charge on the Lot in Question and shall be a continuing lien upon the Lot in Question. The amount of the written invoice shall also be the obligation of the Lot Owner of the Lot in Question when the invoice fell due, and shall not pass to his or her successors in title unless expressly assumed by them. Any invoice not paid within thirty (30) days after receipt shall bear interest from the due date at the rate of sixteen percent (16%) per annum or the maximum rate allowed by law, whichever is less. The Notifying Lot Owner who performed the work represented by the invoice, may bring an action at law against the Lot Owner obligated to pay the same, or foreclose the lien against the Lot in Question.

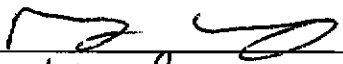
3. Indemnification and Hold Harmless. Each Lot Owner shall be liable to the other Lot Owners for any damage due to the use of the Common Drives by such party, its employees, invitees, agents, successors, or assigns. Each Lot Owner shall indemnify and save harmless the Lot Owner(s) of the remaining Lots from all claims, liens, damages and expenses, including reasonable attorney's fees, arising out of its failure to insure, maintain, repair or replace that portion of the Common Drives located upon such Lot Owner's Lot.

4. Binding. This Agreement shall be binding upon the parties hereto and shall be appurtenant to and run with Lots.

5. Modification. This Agreement shall not be released, terminated, revoked, amended or modified in any manner, without the express written consent of all Lot Owners. The Lot Owners of the Lots may unanimously agree to form an association, a corporation or other entity to provide a mechanism for the joint maintenance, repair, reconstruction, or replacement of all or any portion of the Common Drives.

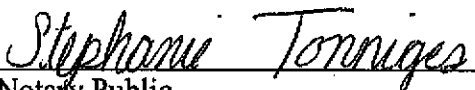
6. Authority. The undersigned parties hereby covenant that they have the power and authority to enter into this Agreement, and that all necessary corporate action has been taken to approve this Agreement.

SOUTHVIEW, INC., a Nebraska corporation

By:   
Title: Vice President

STATE OF NEBRASKA                    )  
  ) ss.  
COUNTY OF LANCASTER            )

The foregoing was acknowledged before me this 8th day of December, 2017, by Randy Chevalier, Vice-President of Southview, Inc., a Nebraska corporation, on behalf of the corporation.

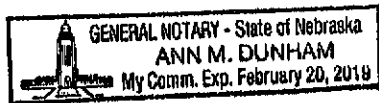
  
Notary Public

**FUND 51, LLC**, a Nebraska limited liability company

By: *John L. Decker, Jr.*  
Title: *Manager*

STATE OF NEBRASKA           )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing was acknowledged before me this 11<sup>th</sup> day of December, 2017, by *John L. Decker, Jr., Manager* of **Fund 51, LLC**, a Nebraska limited liability company, on behalf of the limited liability company.



*Ann M. Dunham*  
Notary Public