

**SUBDIVISION IMPROVEMENTS AGREEMENT**  
*Southview Sanctuary Estates*

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**Yellowstone County**

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**SUBDIVISION IMPROVEMENTS AGREEMENT**  
*Southview Sanctuary Estates*

**This agreement** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between 2K Enterprises LLC, whose address for the purpose of this agreement is 9216 Kautzman Road, Billings, MT 59101, hereinafter referred to as “Subdivider,” and YELLOWSTONE COUNTY, Montana, hereinafter referred to as “County.”

**WITNESSETH:**

**WHEREAS**, Southview Sanctuary Estates, being Lot 1 of the DanWalt Subdivision, located in Yellowstone County, Montana was submitted to the Yellowstone County Board of Planning as a major subdivision; and

**WHEREAS**, a Subdivision Improvements Agreement is required by the County prior to the approval of the final plat.

**WHEREAS**, the provisions of this agreement shall be effective and applicable to the single family residential development of Southview Sanctuary Estates, being Lot 1 of the DanWalt Subdivision, upon the filing of the final documents in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the Yellowstone County Subdivision Regulations, the rules, regulations, policies, and resolutions of Yellowstone County, and the laws and administrative rules of the State of Montana.

**THEREFORE, THE PARTIES TO THIS AGREEMENT**, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

**I. VARIANCES**

Subdivider does not request any variances from the Yellowstone County Subdivision Regulations for this subdivision.

**II. CONDITIONS THAT RUN WITH THE LAND**

- A.** Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- B.** Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.
- C.** No water rights have been transferred to the lot owners.
- D.** There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
- E.** Lot owners should be aware that portion(s) of this property lie within the floodplain/floodway, as depicted on the FEMA maps for this area. Please be advised that special development restrictions may apply within these specified areas.

F. Culverts and associated drainage swales shall not be filled in or altered by the subdivider or subsequent lot owners.

G. When required by road improvements, all fences and irrigation ditches in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public right-of-way and any relocation outside of the public right-of-way shall be subject to securing and recording easements.

H. Future maintenance of all public improvements shall be done through one (1) or more RSID(s) created as part of the SIA for this subdivision.

### III. TRANSPORTATION

#### A. Streets

The proposed street for the subdivision will be a 28' wide public street constructed to County Standards. It consists of a 24' wide paved surface with a two-foot wide gravel shoulders and drainage ditches on both sides. The street will be situated in a 60' right-of-way. The public street will connect to 56<sup>th</sup> street to the west and Elk River Road to the northeast.

No sidewalks are to be provided.

There are no bike trails planned within this residential subdivision.

#### B. Traffic Control Devices

One stop sign will be located at the intersection of the street with 56<sup>th</sup> Street. No other traffic control devices will be necessary.

#### C. Access

Access into the property will be via approaches off of the existing roadways. A 30' access will be installed at the intersection with 56<sup>th</sup> Street and the new road will connect directly into Elk River Road. The approaches shall be installed in accordance with the approach standards of Yellowstone County Public Works. No culverts will be installed at these approaches.

#### D. Billings Area Bike Trail Master Plan (BABTMP)

The subdivision is not within the jurisdiction area of the BABTMP.

#### E. Maintenance

Maintenance of the Street Improvements shall be addressed by the creation of a Rural Special Improvement District for Maintenance (RSID-M) for Southview Sanctuary Estates Subdivision. This RSID-M shall include each individual owner of property within the Southview Sanctuary Estates Subdivision.

### IV. EMERGENCY SERVICE

The proposed street will connect to two existing roadways allowing access throughout the subdivision. There is an existing 30,000 gallon dry fire hydrant located within ½ road mile from the Southview Sanctuary Estates subdivision. The ½ road mile from the existing dry hydrant travels through the entire subdivision, passing each full lot front. Proportional payment has been completed between the new Owner(s) and existing owners of the dry hydrant. The maintenance of the existing dry hydrant is the responsibility of the RSID-M as described in the SIA for Curly Willow Subdivision and Condos on file at the Yellowstone County Clerk & Recorder under Document #3617053. This RSID-M shall be expanded to include the Southview Sanctuary Estates Subdivision. This subdivision is within the BUFSAs boundaries.

**V. STORM DRAINAGE**

This subdivision is subject to review by the Department of Environmental Quality for storm water management. There are no existing storm water facilities within the project limits. Southview Sanctuary Estates Drive will be constructed per Yellowstone County standards which utilize borrow ditches as drainage swales within the public right-of-way. In addition, storm water retention swales will be sized on each lot to provide the necessary storage volume. Storm water will be retained within these two systems for the required storm event(s) and duration as identified by MDEQ Circular 8 - *Montana Standards for Subdivision Storm Drainage*. No approach culverts shall be installed to individual lots. Maintenance of the storm water facilities shall be the responsibility of Southview Sanctuary Estates Subdivision Homeowners Association.

The local FEMA map identifies a 100-year floodplain boundary that encroaches upon the subdivision. The floodplain boundary, as shown on the plat, was located using the FEMA Map #30111C1435E (effective date November 6, 2013). The floodplain boundary, not the necessarily the floodway, crosses the Private Parkland and a small portion of Lot 10.

**VI. UTILITIES**

**A. Water**

No public water is available in the subdivision at this time. The subdivision will utilize individual wells as approved by MDEQ. The maintenance of the water facilities will be the responsibility of the individual lot owners.

The design and permitting of the water facilities will be concurrent with this subdivision review and its approval shall be subject to the approval by MDEQ.

**B. Septic System**

No public sewer is available in the subdivision at this time. The subdivision will utilize individual wastewater disposal systems as approved by MDEQ. The maintenance of the sewer facilities will be the responsibility of the individual lot owners.

The design and permitting of the sewer facilities will be concurrent with this subdivision review and its approval shall be subject to the approval by MDEQ.

**C. Power, Telephone, Gas, and Cable Television**

Utilities will be placed within right-of-way and routed throughout the subdivision to best serve the needs of lots.

**VII. PARKS/OPEN SPACE**

Private Parkland as identified on the Plat will be for sole use by the Southview Sanctuary Estates Subdivision, as identified in the Southview Sanctuary Estates Homeowners Association Documents. Section 10 of the Yellowstone County Subdivision Regulations identifies the required park space for this size and type of development to be 7.5% of the net land area; the lot identified as open space is in excess of 37% of the net land area. Maintenance will be the responsibility of the Southview Sanctuary Estates Homeowners Association. The parkland is restricted from any further subdivision.

**VIII. IRRIGATION**

There are no identified irrigation easements within the plat boundary. Irrigation for landscaping of the lots will be the sole responsibility of individual lot owners.

**IX. WEED MANAGEMENT**

All noxious weeds on the latest Yellowstone County Noxious Weed List shall be controlled on all properties in the subdivision.

A Weed Management Plan has been approved by the Yellowstone County Weed Department. Said weed management plan shall contain the noxious weeds being addressed and the plan for the control of those weeds. All associated cost for noxious weed control is the responsibility of the owner of record.

A re-vegetation plan shall be submitted as part of the management plan. A seeding recommendation can be obtained from the Yellowstone County Weed Department pursuant to Section 7-22-2152, MCA. The Yellowstone County Weed Department reserves the right to revise these recommendations based on the required site inspection.

**X. SOILS/GEOTECHNICAL STUDY**

A geotechnical investigation may be required prior to issuance of building permit for the buildings in this subdivision.

**XI. FINANCIAL GUARANTEES**

Except as otherwise provided, Subdivider shall install and construct said required improvements by private contracts secured by bonds, irrevocable letters of credit, sequential development, or any other method that may be acceptable to the Planning Board and Board of County Commissioners. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be designed by and constructed under the supervision of a professional engineer competent in civil engineering, licensed in the state of Montana. Upon completion of the improvements, the consulting Engineer shall file with the Public Works Department, a statement certifying that the improvements have been completed in accordance with approved, seal stamped, record drawings, along with all required post-construction certification per Section 4.6.C. of the Yellowstone County Subdivision Regulations.

(In the event that all required improvements are not installed and constructed prior to final plat approval, the Subdivider shall provide a monetary security guarantee in the amount of 125% of the estimated total cost by one (1) of the methods listed in Chapter 5 of the Yellowstone County Subdivision Regulations. If using a security, describe the method in this section)

**XII. LEGAL PROVISIONS**

- A. Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by Yellowstone County.
- B. The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.
- C. The covenants, agreements, and all statements in this Agreement apply to and shall be binding on the heirs, personal representatives, successors and assigns of the respective parties.
- D. In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.
- E. Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.
- F. Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

**G.** Subdivider agrees to create any required (or expansion of existing) RSID(s) for future maintenance of all public (or common) constructed improvements prior to final plat approval.

DRAFT

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

“SUBDIVIDER”

2K Enterprises LLC.

\_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone     )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of 2K Enterprises LLC., who executed the foregoing instrument and acknowledged to me that he/she executed the same.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

DRAFT

This Agreement is hereby approved and accepted by Yellowstone County, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**"COUNTY"**

COUNTY OF YELLOWSTONE  
MONTANA

County of Yellowstone  
Board of County Commissioners

BY: \_\_\_\_\_  
Chairman

BY: \_\_\_\_\_  
Commissioner

BY: \_\_\_\_\_  
Commissioner

ATTEST \_\_\_\_\_  
County Clerk and Recorder

STATE OF MONTANA    )  
                                  :ss.  
County of Yellowstone    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ known to me to be the Board of County Commissioners and the County Clerk and Recorder, respectively, of Yellowstone County, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of Yellowstone County, Montana.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

Notary Public for the State of Montana  
Residing in \_\_\_\_\_, Montana

My Commission expires: \_\_\_\_\_

**WAIVER OF RIGHT TO PROTEST**

**FOR VALUABLE CONSIDERATION**, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more Rural Special Improvement Districts (RSID's) which Yellowstone County may require.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties, and shall run with the land and shall be binding upon the undersigned, their successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

**Southview Sanctuary Estates**

Signed and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**"SUBDIVIDER"**

2K Enterprises LLC.

\_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MONTANA     )  
  : ss  
County of Yellowstone    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of 2Ks Enterprises, LLC, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

\_\_\_\_\_  
Notary Public in and for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**Return to:**  
City of Billings  
Engineering Division  
2224 Montana Ave.  
Billings, MT 59101

## **20' WIDE DRAINAGE AND ACCESS EASEMENT**

2k Enterprises LLC, herein after referred to as "GRANTOR" is the owner of the following property in the City of Billings, Montana:

Lots 9 and 10 of Southview Sanctuary Estates Subdivision, located in the Southwest  $\frac{1}{4}$  of Section 33, Township 1 South, Range 25 East, P.M.M., Yellowstone County, Montana according to the official plat on file in the office of the Clerk and Recorder of said county, under Document # \_\_\_\_\_.

Any and all owners or future owners of Lot 9, Lot 10 and Private Parkland, Southview Sanctuary Estates Subdivision are hereinafter referred to as the "GRANTEE".

THIS INDENTURE made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the GRANTOR and the GRANTEE.

THE GRANTOR does hereby give, grant and convey unto the GRANTEE, their successors, assigns, and invitees the right, privilege and authority to access, construct, reconstruct, maintain, operate, repair, and improve the 20' Drainage and Access Easement for the purpose of drainage and access within said easement. The 20' wide Drainage and Access easement can be described as follows:

*Beginning at the north end of the common lot line between said Lot 9 and Lot 10, the 20-foot wide easement is centered on the common lot line between said Lot 9 and Lot 10 to the South end of the common lot line between said Lot 9 and Lot 10.*

Grantor shall continue to have the right to use and enjoy the above-described property, subject to the following restrictions:

- A. Grantors and their successors agree not to construct, nor cause to be constructed, within the easement any type of building or structure, or any kind of fixed objects of any kind, shape or form, except as may be licensed by Grantee.
- B. Grantors and their successors agree not to plant nor cause to be planted within the easement any trees, bushes, or any other plantings of a similar nature, except as may be licensed by Grantee.



## Tyler Kerns

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**From:** Tretin, Jenn <Jenn.Tretin@centurylink.com>  
**Sent:** Monday, December 18, 2017 09:42  
**To:** Tyler Kerns  
**Subject:** Southview Sanctuary Estate

Good morning Tyler,

As discussed on the phone for the easement for Southview Sanctuary Estates, CenturyLink is fine with the 8' easements to be in the same trench with MDU or Northwestern utilities. If you need anything further, please let me know. Thanks!

Enjoy your day,

### Jenn Tretin

Engineer I | CenturyLink | [www.centurylink.com](http://www.centurylink.com)  
p: 406-255-8324 | e: [jenn.tretin@centurylink.com](mailto:jenn.tretin@centurylink.com)

219 Calhoun Lane | Billings, MT 59101-1367



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## Tyler Kerns

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**From:** Morton, Tim <Tim.Morton@northwestern.com>  
**Sent:** Monday, December 18, 2017 11:17  
**To:** Tyler Kerns  
**Subject:** RE: SSE Plat

Tyler,

The existing easements you have on the plat will work with NorthWestern Energy.

### Tim Morton

*Construction Engineer*

Office: 406-655-2552

Cell: 406-694-6197

Fax: 406-655-2511

[tim.morton@northwestern.com](mailto:tim.morton@northwestern.com)

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**From:** Tyler Kerns [mailto:[tylerk@eecmt.com](mailto:tylerk@eecmt.com)]  
**Sent:** Monday, December 18, 2017 11:12 AM  
**To:** Morton, Tim <Tim.Morton@northwestern.com>  
**Subject:** SSE Plat

### Tyler M. Kerns, P.E.

*Licensed Engineer*

[tylerk@eecmt.com](mailto:tylerk@eecmt.com)

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