

Return to:  
Billings City Clerk  
P.O. Box 1178  
Billings, MT 59103

## ANNEXATION AGREEMENT

**THIS ANNEXATION AGREEMENT** is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between JTL Group, Inc. a Montana corporation, 4014 Hesper Road, Billings, Montana, 59106, hereinafter referred to as "DEVELOPER," and THE CITY OF BILLINGS, MONTANA, a municipal corporation, c/o City Hall, 316 N. 26<sup>th</sup> Street, Billings, Montana, 59101, hereinafter referred to as the "CITY." DEVELOPER and CITY are sometimes referred to in this Agreement individually as "Party" and collectively as the "Parties."

**WHEREAS**, DEVELOPER is the owner of certain real property situated in Yellowstone County, Montana, more particularly described as follows:

Lots 1, 2, and 4A of Block 1, LONG SUBDIVISION, located in Section 15, Township 1 South, Range 25 East, P.M.M., Yellowstone County, Montana, more particularly described as follows:

Phase 1 Annexation Area

Lot 1, Block 1, LONG SUBDIVISION, LESS 0.57 acres for Shiloh Road, as recorded under Document No. 1755400, records of Yellowstone County, Montana.

Phase 2 Annexation Area

Lot 2, Block 1, LONG SUBDIVISION, containing 286,433.06 square feet in Zone 8 and 917,129.74 square feet in Zone O23 (Multi-District), as recorded under Document No. 1755400, records of Yellowstone County, Montana.

Phase 3 Annexation Area

Lot 4A, Block 1, LONG SUBDIVISION, containing 40.22 acres, amended plat recorded under Document No. 3898445, records of Yellowstone County, Montana.

All situated in Section 15, Township 1 South, Range 25 East, P.M.M., Yellowstone County, Montana.

CONTAINING A TOTAL AREA OF 144.46 ACRES MORE OR LESS.

Above referenced property is hereinafter referred to as “Developer Tract” and is depicted in the attached Exhibit A.

**WHEREAS**, DEVELOPER has submitted to the City a Petition for Annexation to the City for Developer Tract; and

**WHEREAS**, DEVELOPER desires to annex Developer Tract to the City; and

**WHEREAS**, DEVELOPER is proposing to develop the Developer Tract in phases over time; and

**WHEREAS**, CITY has approved the Petition for Annexation by Resolution No. \_\_\_\_\_ for the Developer Tract contingent upon an Annexation Agreement being executed between CITY and DEVELOPER to identify required off-site infrastructure improvements and guarantees of those improvements.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, the Parties do hereby agree as follows:

1. *Roads and Access.* The Developer Tract will be accessed, among other means, by way of existing public right-of-way along Shiloh Road and Hesper Road. A new collector street per the 2023 Billings Urban Area Long Range Transportation Plan shall be extended by DEVELOPER at DEVELOPER cost from the roundabout at Developer Tract’s Lot 1 northern boundary to the Developer Tract’s western boundary of Lot 4A to line up with a projection of the north-south future 44<sup>th</sup> Street West right-of-way. From this collector street, a north-south street shall be constructed by DEVELOPER that connects to Hesper Road.

Access to Shiloh Road shall be limited to one access point every one-eighth mile, spaced evenly between the roundabouts at each of the Developer Tracts’ northern and southern property boundary. A middle access point on Shiloh Road placed at the quarter-mile spacing shall be limited to a three-quarter access. The one-eighth spaced access points shall each be spaced an eighth mile north and south of the middle access point and will be limited to a right-in, right-out access.

Access to Hesper Road shall be limited to two full accesses at quarter-mile spacing starting west of the roundabout at Shiloh Road and Hesper Road.

No approaches of any kind on Shiloh Road or Hesper Road shall be closer than 660-feet to the roundabout at Shiloh Road and Hesper Road and the

roundabout at Shiloh Road and Developer Tract's northern property boundary.

Allowed access points for Developer Tract are depicted in Exhibit A.

2. Sanitary Sewer. The Developer Tract will be served by existing sanitary sewer improvements located in Hesper Road and Shiloh Road. DEVELOPER shall install sewer mains as necessary and at DEVELOPER's cost to serve Developer Tract.

DEVELOPER shall extend sewer services to Developer Tract's boundary lines to serve City of Billings property located at Long Subdivision Amended, Lot 5A, Block 1, Geocode 03092615101100000; Long Subdivision Amended, "Multi-District", Lot 3A, Block 1, Geocode 03092615315016002; Long Subdivision, "Multi-District", Lot 3A, Block 1, Geocode 03092615315016001.

DEVELOPER shall be responsible for payment of the City wastewater system development fee prior to the issuance of any building permits for the applicable portion of the Developer Tract to which such building permit relates.

3. Water. The Developer Tract will be served by existing water lines adjacent to Developer Tract. In addition, DEVELOPER shall install a 16-inch water main from the roundabout at Shiloh Road and the property's northern boundary to the northern water main stub located at the property's western boundary of Lot 4A at the projection of the future 44<sup>th</sup> Street West right-of-way.

DEVELOPER shall install a water main along the Hesper Road property frontage the total length of Developer Tract. The size shall be determined at the time of development by the City. DEVELOPER may submit a compensation agreement to oversize the water main in accordance with the City of Billings Rules and Regulations Governing Water and Sanitary Sewer in effect at the time of water main installation. If the City of Billings installs the water main prior to the DEVELOPER, DEVELOPER shall reimburse the City for applicable costs in accordance with the City of Billings Rules and Regulations Governing Water and Sanitary Sewer in effect at the time of water main installation.

DEVELOPER shall stub a 12" water main to the easternmost property boundary of Developer Tract along Shiloh Road across from Temple Place.

DEVELOPER shall be responsible for payment of the City water system development fee prior to the issuance of any building permits for the applicable portion of the Developer Tract to which such building permit relates.

4. Storm Drain. DEVELOPER shall extend a storm drain pipe from Developer Tract to the City storm water facility located on the south side of Hesper Road at DEVELOPER cost. DEVELOPER is not required to provide onsite stormwater storage for individual developments within Developer Tract, but may choose to construct onsite stormwater storage or may need to construct onsite storage based upon design specifics of development with Developer Tract. Stormwater discharge to City storm water facility located on the south side of Hesper Road from Developer Tract is not limited to, but needs to meet, the stormwater discharge requirements identified in the City's Stormwater Management Manual (SWMM).

Developer Tract shall mitigate water quality requirements onsite pursuant to the requirements provided in the SWMM in effect at the time that each portion, part or tract of the Developer Tract is developed. The stormwater shall be treated to the Municipal Separate Storm Sewer System (MS4) requirements in effect at the time of development prior to being discharged offsite to a City of Billings stormwater facility. Developer Tract shall deliver stormwater to the City storm water facility at DEVELOPER's sole expense.

All other drainage improvements shall comply with the provisions of the SWMM and Chapter 28 of the Billings, Montana City Code (BMCC) in place at the time that each portion, part or tract of the Developer Tract is developed.

DEVELOPER shall be responsible for payment of applicable City storm water system development fees prior to the issuance of any building permits for the applicable portion of the Developer Tract to which such building permit relates.

5. Right-of-Way. Public Right-of-Way will be dedicated to the City of Billings in accordance with the 2023 Billings Urban Area Long Range Transportation Plan and in accordance with the City of Billings Subdivision Regulations. Right-of-way dedications shall include DEVELOPER dedicating principle arterial right-of-way widths along Shiloh Road and Hesper Road and a collector right-of-way width for the new east-west collector street that is to be extended by DEVELOPER from the roundabout at the Developer Tract's northern boundary to the Developer Tract's western boundary of Lot 4A to line up with a projection of the north-south future 44<sup>th</sup> Street West right-of-way. All other public roads constructed within Developer Tracts shall be

constructed in right-of-way dedicated to the standards of the 2023 Billings Urban Area Long Range Transportation Plan and in accordance with the City of Billings Subdivision Regulations.

6. Street Improvements. DEVELOPER will be required at the time of development to construct the north half of Hesper Road to principle arterial standards complete with street widening, curb and gutter, streetlights, a multi-use trail, intersection improvements, turn lanes, storm drainage infrastructure necessary to construct the street, tapers, and any other improvements identified by the Developer Tract traffic accessibility study. Improvements to Hesper Road may be constructed to the Developer Tract phase boundary provided road tapers are constructed by DEVELOPER.

DEVELOPER shall be responsible to construct the entire new collector street to City standards that shall be extended by DEVELOPER from the roundabout at the Developer Tract's northern boundary to the Developer Tract's western boundary of Lot 4A to line up with a projection of the north-south future 44<sup>th</sup> Street West right-of-way.

DEVELOPER shall construct all other street and accessways internal to Development Tracts.

DEVELOPER shall be responsible for the maintenance of the sidewalk and trails constructed by DEVELOPER after construction.

7. Sidewalk or Multi-use Trail. A sidewalk and multi-use trail is required to be constructed along the new east-west collector street and is required to be constructed at the expense of the DEVELOPER. A new multi-use trail is required to be constructed along Hesper Road and is required to be constructed at the expense of the DEVELOPER.

DEVELOPER shall be responsible for the maintenance and replacement of all the sidewalk and trails abutting Developer Tracts and constructed by DEVELOPER. DEVELOPER maintenance and replacement includes the existing Shiloh Road multi-use trail along Developer Tract's easternmost property boundary frontage.

8. Future Intersection Contributions. A traffic impact study will be performed at the time of future subdivision and/or development to determine DEVELOPER contributions to future intersection improvements if development exceeds the threshold identified in the City of Billings Subdivision Regulations and Site Development Regulations stated in Billings Municipal City Code. The preparation of the traffic impact study and any

fees to mitigate impacts to future intersection improvements will be at the expense of the DEVELOPER.

9. Public Improvements. Should the City perform improvements listed in the Agreement or not listed in the Agreement benefitting the Developer Tracts, the CITY shall rely on the attached Waiver filed concurrently herewith, to ensure the installation of any or all remaining public improvements. Said improvements shall include, but not be limited to, construction, reconstruction or maintenance of streets, curbs, gutter, concrete ribbons, sidewalks, multi-use trails, driveways, survey monuments, street name signs, street lights, street light energy and maintenance, parks and parks maintenance, traffic control devices on-site and off-site inclusive as determined by an overall traffic accessibility study, specific realignments or relocation of sanitary sewer lines and water lines, valley gutters, culverts, storm sewer lines, if any, either within or without the area, and other improvements which the City of Billings may require. The attached Waiver, waiving the right to protest the creation of one or more Special Improvement Districts, by this reference is expressly incorporated herein and part hereof. All of the DEVELOPER properties can be included in a Special Improvements District for improvements identified in Annexation Agreement regardless of location of individual properties in relation to the improvements.
  
10. Annexation. The DEVELOPER has requested to develop and annex the property in phases. The annexation is subject to the following conditions of approval:
  - a. Phase 1 shall be considered annexed effective immediately upon approval of the mutually agreed upon Annexation Agreement.
  
  - b. Phase 2 and 3 annexations will require a written request from the DEVELOPER to the Planning Division. The request shall refer to the document number of this filed resolution and expressly state the landowners desire to immediately include the property within city limits to be developed in accordance with the Planned Neighborhood Development. If deemed necessary, the City may bring forward a subsequent Resolution of Annexation for the City Council's review specifically related to Phase 2 and 3. Since all phases were included in the original petition, no new annexation petition fees will be collected by the Planning Division. Further, in no circumstance shall development of any kind (excepting and allowing City-installed water, sanitary sewer, or storm drain) to commence prior to the City accepting the written request and notification to the Department of Revenue (DOR), City of Billings

Geographic Information Services (GIS) and the Yellowstone County Clerk and Recorder. If the Phase 2 and 3 written requests have not been submitted within seven years of the date of this Resolution, the property will automatically be included in the City Limits. The City will initiate this annexation through notification to the DOR.

- c. Upon the approval of a subdivision associated with this Annexation and Planned Neighborhood Development, the Annexation Resolution may be amended by City Council to reflect any new phasing boundaries to be consistent with the required Subdivision Improvement Agreement and plat.
- d. If the conditions are not satisfied, or the DEVELOPER requests changes inconsistent with the approval in the Resolution of Annexation, any new requests for the property legally described within this resolution shall be processed as a new petition of annexation.

11. Compliance. Nothing herein shall be deemed to exempt the Developer Tract from compliance with any current or future City laws, rules, regulations, or policies that are applicable to the development, redevelopment, or use of the subject property.

12. Warning and Indemnification Concerning City of Billings Water Reservoir. DEVELOPER, its successors and assigns, hereby acknowledge that the Developer Tract is located adjacent to and downhill from the City of Billings Water Reservoir, creating an inherent risk of injury and property damage. DEVELOPER, its successors and assigns, hereby knowingly, voluntarily, and fully waive and release the CITY from any future right, privilege or claim for compensation, specific performance, injunction, or other remedy of any kind, including those unknown and unanticipated, arising from or in any way related to flood, breach, collapse, leakage, subsidence, earth movement, property damage, personal injury, or any other damage or injury of any kind caused by, emanating from, or in any way related to the City of Billings Water Reservoir or its construction, maintenance, or operation. DEVELOPER and such parties specifically acknowledge that claims waived and released hereby include, but are not limited to, claims arising from or related to the inherent risks related to the City of Billings Water Reservoir, as well as claims arising from or related to CITY's approval of plans or permits. DEVELOPER, its successors and assigns, are expressly advised to retain qualified professionals to assess and advise them on dangers posed by the subject facility, soil conditions, or any other hazards associated with Developer Tract. DEVELOPER, its successors and assigns, further

acknowledge that Montana statutes and common law may impose duties requiring that they avoid damaging or impairing the operation of the City of Billings Water Reservoir. If any action of DEVELOPER or any of its successors and assigns (herein referred to as a "Responsible Party") causes damage or impairment to the City of Billings Water Reservoir which results in a claim against the CITY for compensation, specific performance, injunction, or other remedy, the Responsible Party shall fully defend, indemnify, and hold the CITY harmless from and against any such claim to the extent of the cause apportioned to the Responsible Party.

13. Runs with Land. The covenants, agreements, and all statements in this Agreement and in the incorporated and attached Waiver shall run with the land and shall be binding on the heirs, personal representatives, successors, and assigns of the respective parties.
14. Attorney's Fees. 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, including those fees and costs of in-house counsel.
15. Amendments and Modifications. Any amendments or modifications of this Agreement 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.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the day and year first above written.

“DEVELOPER”

JTL Group, Inc. a Montana corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

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 person who signed the foregoing instrument as the \_\_\_\_\_ of JTL Group, Inc. a Montana corporation, and who acknowledged to me that said DEVELOPER executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

\_\_\_\_\_  
Notary Public in and for the State of Montana

Printed name: \_\_\_\_\_

Residing at: \_\_\_\_\_

My commission expires: \_\_\_\_\_



## **WAIVER OF RIGHT TO PROTEST**

**FOR VALUABLE CONSIDERATION**, the undersigned, Owner of the hereinafter described real property, does hereby waive the right to protest the formation of one or more Special Improvement Districts (SID) for the construction, reconstruction or maintenance of streets, curbs, gutter, concrete ribbons, sidewalks, multi-use trails, driveways, survey monuments, street name signs, street lights, street light energy and maintenance, parks and parks maintenance, traffic control devices on-site and off-site inclusive as determined by an overall traffic accessibility study, specific realignments or relocation of sanitary sewer lines and water lines, valley gutters, culverts, storm sewer lines, if any, either within or without the area, and other improvements which the City of Billings may require.

The Waiver and Agreement shall run with the land and shall be binding upon the undersigned, its successors and assigns, and shall be recorded in the office of County Clerk and Recorder of Yellowstone County, Montana.

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

Lots 1, 2, and 4A of Block 1, LONG SUBDIVISION, located in Section 15, Township 1 South, Range 25 East, P.M.M., Yellowstone County, Montana, more particularly described as follows:

Phase 1 Annexation Area

Lot 1, Block 1, LONG SUBDIVISION, LESS 0.57 acres for Shiloh Road, as recorded under Document No. 1755400, records of Yellowstone County, Montana.

Phase 2 Annexation Area

Lot 2, Block 1, LONG SUBDIVISION, containing 286,433.06 square feet in Zone 8 and 917,129.74 square feet in Zone O23 (Multi-District), as recorded under Document No. 1755400, records of Yellowstone County, Montana.

Phase 3 Annexation Area

Lot 4A, Block 1, LONG SUBDIVISION, containing 40.22 acres, amended plat recorded under Document No. 3898445, records of Yellowstone County, Montana.

All situated in Section 15, Township 1 South, Range 25 East, P.M.M., Yellowstone County, Montana.

CONTAINING A TOTAL AREA OF 144.46 ACRES MORE OR LESS.

“DEVELOPER”

JTL Group, Inc. a Montana corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

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 person who signed the foregoing instrument as the \_\_\_\_\_ of JTL Group, Inc. a Montana corporation, and who acknowledged to me that said DEVELOPER executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

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

**Exhibit A**

Existing roundabout.  
Allowable full  
access/roundabout. No signal.



Lot 1

Allowed RI/RO Access

Lot 4 A

Allowed 3/4 Access

Allowable full  
access/roundabout. No  
signal.

Allowable full  
access/roundabout. Signal  
allowed if warranted.

Allowed  
RI/RO Access

Allowed RI/RO Access

Lot 2

Allowed RI/RO Access

**Shiloh Road**

Existing roundabout

**Hesper Road**

