



**OFFICE OF THE CITY CLERK
COUNCIL ACTION FORM**

SUBJECT: Resolution 22-11079 - Approving Annexation 22-07 _____

Council Meeting Date: October 24, 2022 _____

Vote: APPROVED 11-0 _____

**Shaw, Gulick, Neese, Owen, Joy, Choriki, Tidswell,
Purinton, Boyett, Rupsis, Mayor Cole**

RESOLUTION 22-11079

A RESOLUTION APPROVING PETITION FOR ANNEXATION AND ANNEXING TERRITORY TO THE CITY.

WHEREAS, one hundred percent (100%) of the freeholders who constitute more than fifty percent (50%) of the resident freeholder electors have petitioned the City for annexation of the territory hereinafter described; and

WHEREAS, the territory was described in the Petition as required by law; and

WHEREAS, annexation of said territory would be in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

1. TERRITORY ANNEXED. Pursuant to Petition filed as provided M.C.A., Title 7, Chapter 2, Part 46, the following territory is hereby annexed to the City of Billings:

A tract of Land situated in the SW 1/4 of Section 34, T.1N., R.25E, P.M.M., Yellowstone County, Montana, more particularly described as follows:

Tract 2B, Certificate of Survey No. 2974, Amended Tract 2, recorded November 26th, 2012, under Document No. 3647208.

Including all Right-Of-Way of Avenue D within proposed Michelotti Subdivision.

Said annexation containing 7.000 gross and net acres, more or less.

(# 22-07) See Exhibit "A" Attached

2. CONDITIONS. The annexation is approved, subject to the following conditions:

- Within 45 working days and prior to site development, a Subdivision Improvement Agreement shall be approved as part of a Preliminary Plat approval for Michelotti Subdivision.
- Within 14 working days, a standalone Waiver of Right to Protest, granted in perpetuity, shall be signed by the developer and filed with the Yellowstone County Clerk and Recorder upon the City's approval of the annexation.

If the above conditions are not satisfied as set forth herein, the annexation will not be effective and any subsequent requests for annexation of the property legally described within this resolution shall be processed as a new petition for annexation.

4. EFFECTIVE DATE. This resolution to annex the above-described territory shall be effective immediately upon satisfaction of all conditions. If the above condition(s) are not satisfied, this resolution shall be null and void and shall have no effect.
5. PROCEDURE. All procedures as required under M.C.A., Title 7, Chapter 2, Part 46, have been duly and properly followed and taken.

ADOPTED AND APPROVED by the City Council of the City of Billings, Montana, on the 24th day of October, 2022.

CITY OF BILLINGS:



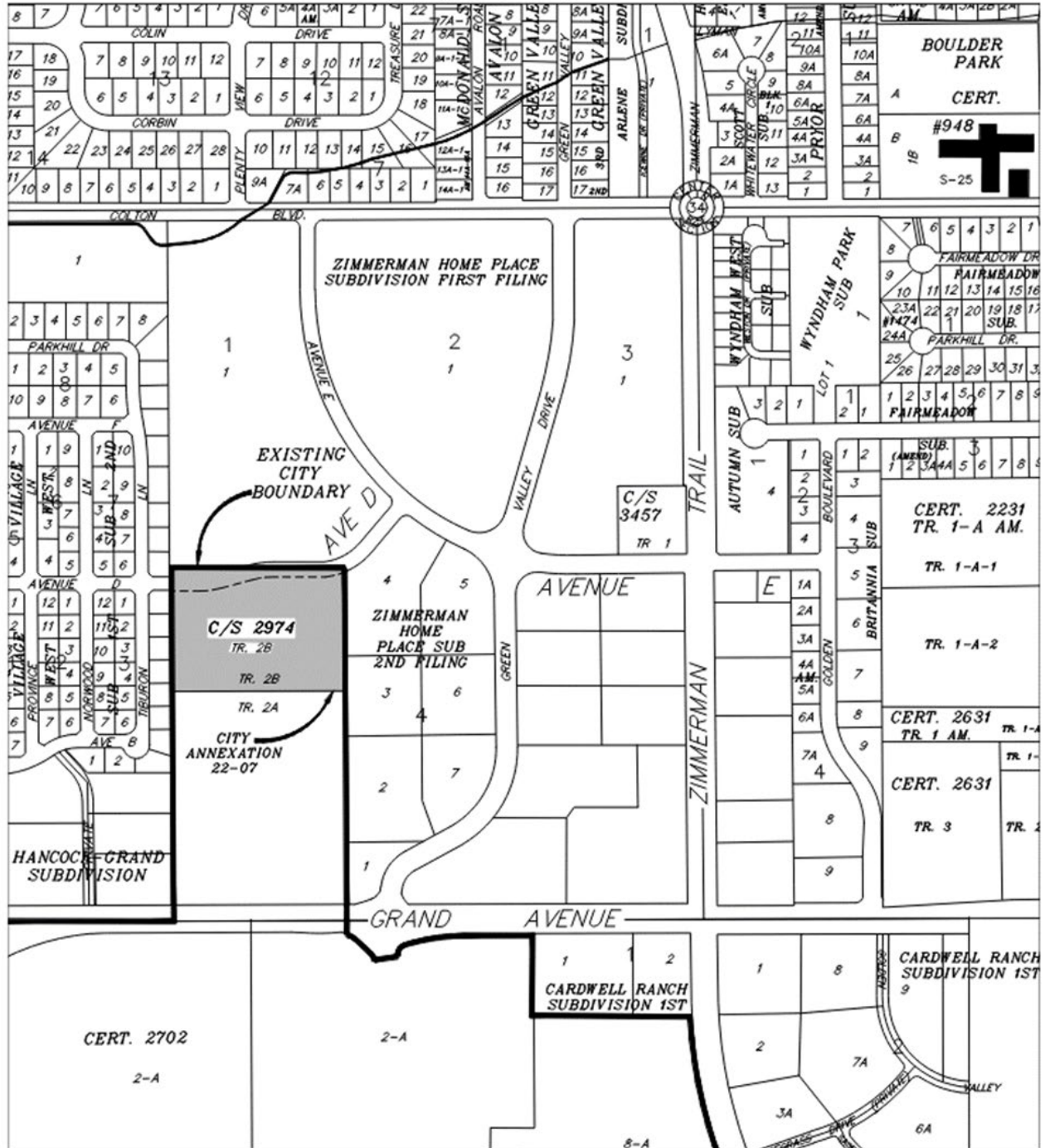
DocuSigned by:
BY: William A. Cole
William A. Cole, Mayor

ATTEST:

DocuSigned by:
BY: Denise Bohlman
Denise R. Bohlman, City Clerk

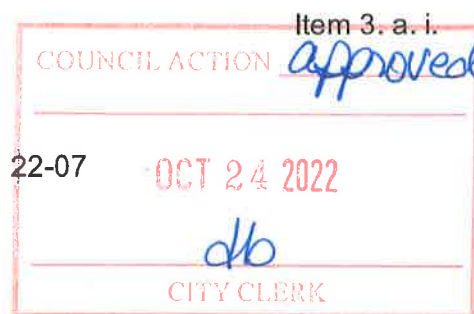
(# 22-07)

EXHIBIT "A"



City Council Regular

Date: 10/24/2022
Title: Joint Public Hearing and Resolution- Annexation 22-07
Presented by: Hunter Kelly, Planner 1
Department: Planning & Community Services
Presentation: Yes
Legal Review Not Applicable

**RECOMMENDATION**

Staff recommends the City Council hold a public hearing. In this case, a joint public hearing that considers both the annexation and associated zone change. Upon completion of the hearing, staff recommends the City annex the petitioned property with the staff recommended conditions of approval.

NOTE: Though a joint hearing is being held, individual action will need to be taken on each item.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

Sanderson Stewart on behalf of Seve Michelotti submitted a petition to annex land using the provisions of Section 7-2-4600, MCA. The property is located South of Avenue D and East of Tiburon Lane. The land being annexed is described as being Tract 2B, Certificate of Survey No. 2974, Amended Tract 2, recorded November 26th, 2012, under Document No. 3647208; also including all Right-Of-Way of Avenue D within proposed Michelotti Subdivision. Said annexation containing 7.000 gross and net acres, more or less.

The property is zoned Rural Residential 3 (RR3). This is not a zoning district recognized by the City. The accompanying zoning application proposes to change the property to Mixed Residential 1 (NX1) a district that allows 1-4 unit structures and Mixed Residential 3 (NX3) a district that requires at least 5-units per structure. Zone Change 1020 is an accompanying application that the Council will review. A joint public hearing to consider both the annexation and zone change will be held on October 24, 2022.

It is the City's custom to have staff prepare a brief analysis of predicted impacts to services and facilities. Staff finds the proposed annexation complies with the adopted Annexation Policy criteria as follows:

1. **The area is located within the City's Annexation Petition Area on its Limits of Annexation Map:** The property is confirmed to be in the red area, see attached map.
2. **The City is able to provide adequate city services within a time period mutually agreed to by the property owners requesting annexation and the city:** The Subdivision Improvement Agreement (conditional approval) is the binding contractual agreement that identifies requirements of the City and the Developer to ensure services are provided in a mutually agreed to time. The SIA will be considered at a subsequent City Council meeting with its accompanying preliminary plat. The developer is required to meet this condition within 45 days.
3. **Existing or proposed public improvements within the area to be annexed will meet City standards:** The existing property is vacant therefore and planned infrastructure will be new and is required to meet the City's regulations. The SIA which is a condition of approval will outline public improvements required of the developer as part of subdividing the property. The only way this property could be developed in the city not according to adopted policies and regulations would require action from City Council or the Board of Adjustment to grant variances allowing deviations from adopted codes. It is required and standard practice that prior to the issuance of any building permit, the building and site plans will undergo planning review to confirm it is designed in accordance with zoning regulations.
4. **All property owners within the area to be annexed must sign a Waiver of Right to Protest future Special Improvement Districts:** A standalone waiver is required as a condition of approval for this annexation. This waiver is good in perpetuity and is not subject to the 20-year limitation as identified in the Montana Subdivision and Platting Act.
5. **All residential property owners within the area to be annexed must create or join an existing park maintenance district:** This criteria is not applicable, as confirmed by the Parks Department as there is not a park maintenance district governing the area, nor is there a parkland dedication requirement at this time. The property is being subdivided, however, per the Montana Subdivision and Platting Act divisions of land that are First Minor Subdivisions are not subject to park dedication requirements.
6. **Residential densities planned for development within the area to be annexed must meet an overall average density of at least 4-7 dwelling units per acre:** The zone districts of NX1 and NX5 ensures a

minimum of 4-7 units per acre. NX1 requires 1-4 unit buildings and NX3 requires a minimum of 5 units. The criteria is intended to be a minimum standard. At this time there is no site plan available for the development to identify a specific number of dwelling units, however, easy assumptions are made based on the requirements of the NX districts identified in BMCC, 27-300.6 and 37-300.7. The number of units is generated based on lot frontage, therefore the street network will govern the allowable units.

7. **The proposed land use within the area to be annexed must conform to the goals of the Adopted City of Billings Growth Policy:** Chapter 2 of the 2016 City of Billings Growth Policy outlines 7 growth guidelines. Essential Investments, Place Making, Community Fabric, Strong Neighborhoods, Home Base, Mobility and Access and Prosperity. Particularly this parcel with the proposed zoning is most in line with the following:

Strong Neighborhoods:

- Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels
- Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, goodwill and social interaction
- Safe and livable neighborhoods can be achieved through subdivision design that focuses on complete streets, pedestrian-scale streetlights, street trees and walkable access to public spaces
- Neighborhoods that are safe and attractive and provide essential services are much desired
- Implementation of the Infill Policy is important to encourage development of underutilized properties

Home Base:

- A mix of housing types that meet the needs of a diverse population is important
- The Housing Needs Assessment is an important tool to ensure Billings recognizes and meets the demands of future development
- Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe
- Planning and construction of interconnected sidewalks and trails are important to the economy and livability of Billings
- Public safety and emergency service response are critical to the well-being of Billings' residents
- Homes that are safe and sound support a healthy community

Departmental Response: City and County Departments were given the opportunity to comment on this annexation. City departments responded favorably and responses are provided below. The County Public Works Department did not respond to this annexation request.

- **Water and Sanitary Sewer:** Public water and sanitary sewer service is available to the property proposed for annexation. The Developer will be required to extend an 8-inch sanitary sewer along Avenue D. Further, the Developer is required to extend a 8-inch water main located at the along Avenue D.
- **Storm water:** Any development is required to be compliant with the adopted Stormwater Management Manual. This is a requirement of the SIA.
- **Transportation:** The Developer Tract will be accessed from Avenue D. The Public Right-of-way along Avenue D will be dedicated to the City of Billings.
- **Fire Stations:** The Billings Fire Department currently serves the subject property through the Billings Urban Fire Service Area agreement. The Billings Fire Department will continue to serve the property upon annexation. As this and additional annexations are built out, additional fire department resources will be needed to meet and maintain our high level of service due to the increased call volume and burden on our department these annexations create. The nearest fire station is Station #7, located at 1504 54th ST W, approximately 2.49 road miles or 5 minutes driving time to the subject property.
- **Parks:** No Parkland or Trails will be required as part of this annexation.
- **School facilities:** Portions of the proposed property will be used for residential development. With residential growth comes demand on the school system. The School district has noted west end schools are currently over capacity. The School District has recently indicated it may undergo a redistricting process to handle over-crowding issues. The School District is not in opposition of this annexation.

General City Services: These are the City services that are provided to all residents and businesses in the City, such as police and fire protection, street and storm drain maintenance, and garbage collection and disposal. The service providers that responded did not object to the annexation of this property, however the Fire Department in its comments above did note its concerns as additional property is annexed into the City.

- **Transit:** The annexed area is not directly serviced by a MET Route. The nearest route, 5A/5B-Grand, currently operates through the intersection of Grand and Zimmerman traveling east and west, which is the nearest accessible point to the property. This intersection is approximately 0.64 miles from the proposed annexation

location via roadway. MET does not anticipate that fixed-route would operate in the area until more significant commercial and/or residential growth necessitated transit service in the area.

- Police: This proposed development is adjacent to established city limits and will not require an adjustment in schedules or staffing at this time. There is sufficient ingress/egress to the area. Despite recent passage of a safety levy, continued annexation and development will affect our ability to deliver service without commensurate resources.
- Public Utilities: The Public Works-- Distribution and Collection Division had no concerns with the annexation request.
- Public Works -Street and Traffic Division: The Street and Traffic Division stated that it has no concerns with serving the property.
- Public Works-Solid Waste: The Solid Waste Division had no concerns with annexing the property, but pointed out that State Law allows the property owner to choose what garbage hauler may service the property after it is in the City.
- Ambulance Service: The City does not provide ambulance service, however it does dictate the level of service provided by American Medical Response (AMR). By City ordinance, 90% of ambulance calls must be answered within 8 minutes. Depending on factors at any given time such as traffic and congestion, this property may be within the area of acceptable response time.
- Legal and Finance: General Fund services, such as the Legal and Finance Departments should not be negatively impacted by this annexation.
- Other Departments: City/County services including Library, Planning, and Environmental Health are only slightly affected by the annexation since they will continue to serve the property whether it is in the City or the County. The Planning Division staff supports the annexation because the criteria of the annexation policy has been met. Further, coordination with other departments does not raise concerns that cannot be mitigated. Therefore, City Council is being provided with a recommendation of approval.

STAKEHOLDERS

Annexation by petition does not require notification of adjoining landowners; however, it does require that the City Council conduct a public hearing, advertise the hearing, and post the property with information on the annexation petition and public hearing. Notice of the public hearing was posted on the property and was advertised in the Yellowstone County News.

ALTERNATIVES

The City Council may

- Approve,
- Conditionally approve or
- Deny the petition for annexation.

Denial of the petition will mean the City Council cannot consider other agenda items related to this property regarding the development agreement and ward boundary ordinance. On September 7, 2022, the annexation petition was submitted to the Planning Division by the owner's agent. On October 24, 2022, the City Council is scheduled to take action on the petition.

FISCAL EFFECTS

This application has no impact on the Planning Division Budget.

Attachments

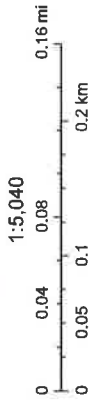
Annexation Resolution
Limits of Annexation Map

ArcGIS Web Map



9/30/2022, 10:00:11 AM

- Limits of Annexation
- City Annexation Petition Area
 - Long Range Urban Planning Area
 - Streams, Ditches, Canals
 - Other
 - Canal or Ditch
- Concrete Box Culvert
- Creek or Slough
- Drain
- Pipe
- Water Body
- Castlerock Reservoir
- Billings City Limits
- Airport Hard Surface
- Railroad
- Road Centerline
- INTERSTATE
- Tax Parcels
- INTERSTATE RAMP
- US ROUTE
- STATE HIGHWAY
- ARTERIAL
- COLLECTOR
- STREET
- PROPOSED ROAD
- UNDEVELOPED ROAD
- PLACEHOLDER
- City / Town



Certificate Of Completion

Envelope Id: 18E0B36D90BE4C8E985217ADE295DC9D

Status: Completed

Subject: Resolution 22-11079 - Annexation 22-07

Source Envelope:

Document Pages: 8

Signatures: 2

Envelope Originator:

Certificate Pages: 5

Initials: 0

Denise Bohlman

AutoNav: Enabled

Stamps: 1

bohlmand@billingsmt.gov

Envelopeld Stamping: Enabled

IP Address: 161.7.21.94

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Record Tracking

Status: Original

Holder: Denise Bohlman

Location: DocuSign

10/26/2022 8:04:00 AM

bohlmand@billingsmt.gov

Signer Events

William A Cole

coleb@billingsmt.gov

Mayor

Security Level: Email, Account Authentication (None)

Signature

DocuSigned by:



2CA11D5423334EE...

Signature Adoption: Pre-selected Style

Using IP Address: 72.175.160.94

Timestamp

Sent: 10/26/2022 8:07:49 AM

Resent: 10/26/2022 8:34:23 AM

Viewed: 10/26/2022 9:57:15 AM

Signed: 10/26/2022 9:57:47 AM

Electronic Record and Signature Disclosure:

Accepted: 12/3/2020 8:46:12 AM

ID: 235dd76e-a3c9-4e23-89f5-aedaeb3b241a

Denise Bohlman

bohlmand@billingsmt.gov

City Clerk

City of Billings

Security Level: Email, Account Authentication (None)

DocuSigned by:



D503C2218DC34F0...



Signature Adoption: Pre-selected Style

Using IP Address: 161.7.21.94

Sent: 10/26/2022 9:57:48 AM

Viewed: 10/26/2022 11:30:00 AM

Signed: 10/26/2022 11:30:05 AM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp**

Toni Keehner

keehnert@billingsmt.gov

Deputy City Clerk

City Clerk

Security Level: Email, Account Authentication (None)

COPIED

Sent: 10/26/2022 11:30:06 AM

| Carbon Copy Events | Status | Timestamp |
|--------------------|--------|-----------|
|--------------------|--------|-----------|

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

| Witness Events | Signature | Timestamp |
|----------------|-----------|-----------|
|----------------|-----------|-----------|

| Notary Events | Signature | Timestamp |
|---------------|-----------|-----------|
|---------------|-----------|-----------|

| Envelope Summary Events | Status | Timestamps |
|-------------------------|------------------|------------------------|
| Envelope Sent | Hashed/Encrypted | 10/26/2022 8:07:49 AM |
| Certified Delivered | Security Checked | 10/26/2022 11:30:00 AM |
| Signing Complete | Security Checked | 10/26/2022 11:30:05 AM |
| Completed | Security Checked | 10/26/2022 11:30:06 AM |

| Payment Events | Status | Timestamps |
|----------------|--------|------------|
|----------------|--------|------------|

| Electronic Record and Signature Disclosure |
|--|
|--|

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Carahsoft OBO City of Billings (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Carahsoft OBO City of Billings:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: kampal@billingsmt.gov

To advise Carahsoft OBO City of Billings of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at kampal@billingsmt.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Carahsoft OBO City of Billings

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to kampal@billingsmt.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Carahsoft OBO City of Billings

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to kampal@billingsmt.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Carahsoft OBO City of Billings as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Carahsoft OBO City of Billings during the course of your relationship with Carahsoft OBO City of Billings.