



OFFICE OF THE CITY CLERK COUNCIL ACTION FORM

SUBJECT: RESOLUTION 23-11101 Approving Annexation 22-08 -
Elyrian School District

Council Meeting Date: February 13, 2023

Vote: APPROVED 9-0, Choriki and Tidswell Absent/Excused

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

Res. 23-11101 Item 4. a.

COUNCIL ACTION	Approved 9-0
Tidwell + Choriki Absent/ Excused	
FEB 13 2023	
dlo	
CITY CLERK	

City Council Regular

Date: 02/13/2023
 Title: Public Hearing and Resolution Annexation 22-08
 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 on the annexation. Upon completion of the hearing, staff recommends the City annex the petitioned property with the staff recommended conditions of approval.

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

Sanderson Stewart on behalf of School District #23 submitted a petition to annex land using the provisions of Section 7-2-4600, MCA. The property is located south of Elysian Road and west of East Lane. The land being annexed is described as being Tracts 2B and 2C of Amended Certificate of Survey No. 3535, recorded August 31st, 2022, under Document No. 4028466, as forever merged with Tract 1A of Certificate of Survey No. 832 per Warranty Deed, recorded August 31st, 2022, under Document No. 4028468, including adjacent Right-Of-Way of East Lane.

The property is zoned Planned Development. This is a zoning designation that is recognized by the City and does not require an accompanying zone change application. The area adjacent to the parcels to be annexed is part of Elysian Elementary School. The purpose of the annexation to expand school facilities for a bathroom facility, ball field and track.

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 as evidenced by the 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 Annexation 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 Annexation Agreement will be considered at this same City Council meeting. The developer is required to meet this condition within 45 days per the attached resolution.
3. Existing or proposed public improvements within the area to be annexed will meet City standards. The existing property is vacant and planned infrastructure will be new and is required to meet the City's regulations. The Annexation Agreement which is a condition of approval will outline public improvements required of the developer as part of developing 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.
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 attached to the Annexation Agreement. The waiver is good in perpetuity and is not subject to the 20-year limitation as identified in the Montana Subdivision and Platting Act.
5. If annexed, any proposed land use will comply with the zoning.
 1. A zone change is not required as part of this annexation. The parcel is zoned School Buffer Zone A per the PD document with an underlying zoning of Highway Commercial. Educational services are an allowable use.
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: This criteria is not applicable given the educational use of the property.
7. The proposed land use within the area to be annexed shall conform to the goals of the City of Billings Growth Policy. This parcel is most in line with the following:
 1. Essential Investments - A supportive school system that inspires, motivates, and prepares students for meaningful employment is important for ensuring a high quality, competitive community

Departmental Response: City and County Departments were given the opportunity to comment on this annexation.

City departments responded favorably and detailed responses are provided below.

- Water and Sanitary Sewer: Public water and sanitary sewer service is available to the property proposed for annexation. The developer is responsible for the proportionate share of installation of a sanitary sewer main along East Lane along the property frontage in the future either through a Private Contract or a Special Improvement District.
- Storm water: Any development will be compliant with the adopted Stormwater Management Manual.
- Transportation: The Developer Tract will be accessed from Elysian Road and East Lane. Public Right-of-way along Elysian Road and East Lane 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 #5, located at 605 S 24th St W, approximately 2.92 road miles or 6 minutes driving time to the subject property.
- Parks: No Parkland or trails will be required as part of this annexation.
- School facilities: The School district did not raise any special requests or concerns during their review of their own proposal, other than a request for its approval.

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.

- Transit: The annexed area is not directly serviced by a MET Route. The nearest route, MET Route 13, WESTEND, which currently operates through the intersection of Mullowney Lane and Midland Road traveling North, which is the nearest accessible point to the property. This intersection is approximately 1 mile from the proposed annexation location via roadway. MET does not anticipate that fixed-route service 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.
- 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 it is consistent with the Limits of Annexation map and the criteria of the annexation policy has been met. Further, coordination with other departments does not raise concerns that cannot be mitigated. These decisions have a cumulative affect, 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 December 13, 2022, the annexation petition was submitted to the Planning Division by the owner's agent. On February 13, 2023, the City Council is scheduled to take action on the petition.

FISCAL EFFECTS

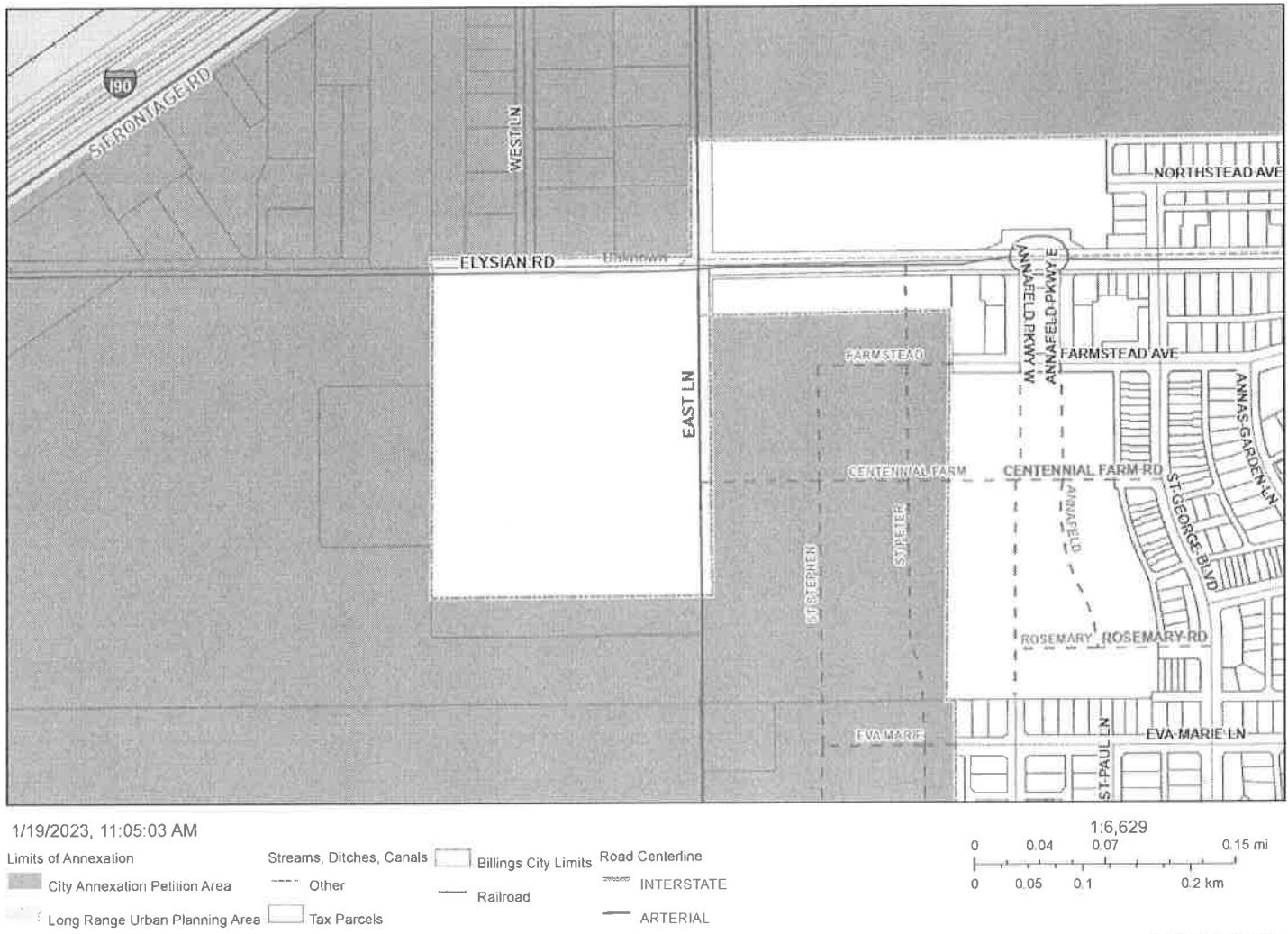
This application has no impact on the Planning Division Budget.

Attachments

Limits of Annexation Map

Resolution

ArcGIS Web Map



RESOLUTION 23-11101

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:

Tracts of Land situated in the NE 1/4 of Section 24, T.1S., R.25E, P.M.M., and the NW 1/4 of Section 19, T.1S., R.26E, P.M.M., Yellowstone County, Montana, more particularly described as follows:

Tracts 2B and 2C of Amended Certificate of Survey No. 3535, recorded August 31st, 2022, under Document No. 4028466, as forever merged with Tract 1A of Certificate of Survey No. 832 per Warranty Deed, recorded August 31st, 2022, under Document No. 4028468.

Including adjacent Right-Of-Way of East Lane.

Said annexation containing 6.068 gross acres and 5.909 net acres, more or less.

(# 22-08) 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 mutually acceptable Annexation Agreement shall be executed between the owner(s) and the City that shall stipulate specific infrastructure improvements and right-of-way dedication, provide guarantees for said improvements, and include a Waiver of Right to Protest the Creation of Special Improvement Districts which will be recorded with the Yellowstone County Clerk and Recorder.

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.

3. **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.
4. **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 13th day of February, 2023.



CITY OF BILLINGS

DocuSigned by:

By: William A. Cole

2023-02-13T14:45:00Z

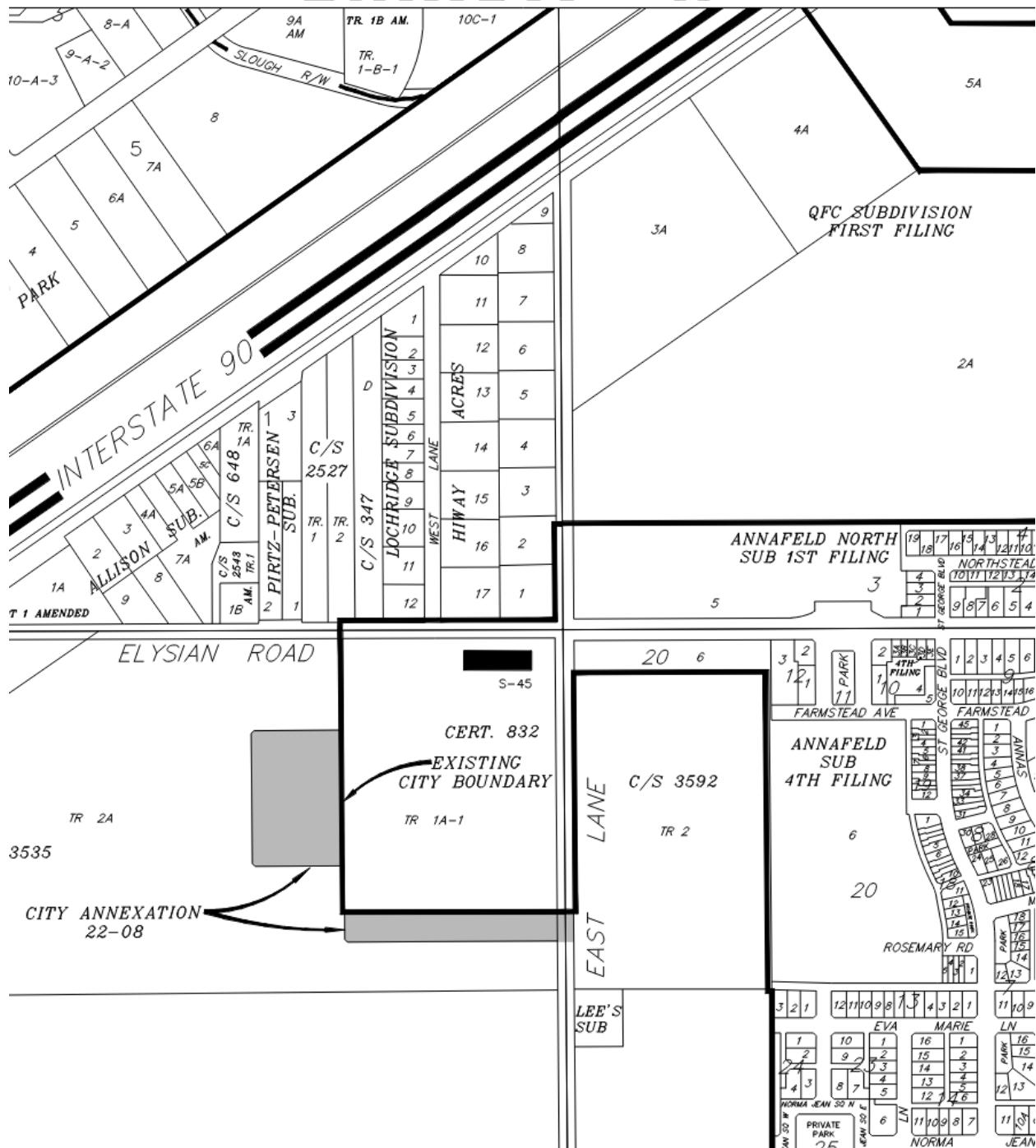
William A. Cole, Mayor

ATTEST:

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

(# 22-08)

EXHIBIT "A"



Certificate Of Completion

Envelope Id: A3C32E190D5C4D34AE3394E6BC6C3444

Status: Completed

Subject: Please DocuSign: RESOLUTION 23-11101 Approving Annexation 22-08 - Elysian School District

Source Envelope:

Document Pages: 8

Signatures: 2

Envelope Originator:

Certificate Pages: 5

Initials: 0

Denise R. Bohlman

AutoNav: Enabled

Stamps: 1

bohlmand@billingsmt.gov

Enveloped Stamping: Enabled

IP Address: 161.7.21.24

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

Canada)

Record Tracking

Status: Original

Holder: Denise R. Bohlman

Location: DocuSign

2/13/2023 2:30:05 PM

bohlmand@billingsmt.gov

Signer Events**Signature****Timestamp**

William A. Cole



Sent: 2/14/2023 8:07:38 AM

coleb@billingsmt.gov

Viewed: 2/14/2023 2:25:12 PM

Mayor

Signed: 2/14/2023 2:25:20 PM

Security Level: Email, Account Authentication
(None)Signature Adoption: Pre-selected Style
Using IP Address: 72.175.160.94**Electronic Record and Signature Disclosure:**

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

Sent: 2/14/2023 2:25:23 PM

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

Denise R. Bohlman



Viewed: 2/14/2023 2:26:33 PM

bohlmand@billingsmt.gov

Signed: 2/14/2023 2:26:41 PM

City Clerk



City of Billings

Security Level: Email, Account Authentication
(None)Signature Adoption: Pre-selected Style
Using IP Address: 161.7.21.24**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: 2/14/2023 2:26:44 PM

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	2/14/2023 8:07:38 AM
Envelope Updated	Security Checked	2/14/2023 8:28:47 AM
Certified Delivered	Security Checked	2/14/2023 2:26:33 PM
Signing Complete	Security Checked	2/14/2023 2:26:41 PM
Completed	Security Checked	2/14/2023 2:26:44 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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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.

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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.

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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

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- 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..

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- 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.