

# Notice of Meeting

County Water District of Billings Heights Regular Board Meeting

Wednesday, December 15, 2021 6:00 pm REVISED

District Office 1540 Popelka Dr., Billings, MT 59105

The meeting is open to any interested member of the public. Agendas are prepared for the meetings; please request an agenda from the Board Recording Secretary Pam Ellis, [pamelliscwdbh@gmail.com](mailto:pamelliscwdbh@gmail.com) and may be available at <https://www.yellowstonecountynews.com/county-water-district-of-billings-heights/>

Agenda items will include Ratification of Board Actions on November 29, 2021 including:

- Removal of Board President and Vice-President and election of new board members for these positions
- Approval of the bylaws reviewed and dated November 19, 2021
- Approval of a contract with Attorney Mark Noennig
- Approval of Board Direction for resolving the fee dispute with the City of Billings
- Approval of a new legal committee to meet with legal counsel Mark Noennig
- Approve of the consent agenda in the November 29, 2021 meeting agenda
- Approval of Annexation on behalf of Zackery D. Michalies, Homestead Subdivision submitted 10-19-2021
- Approval of Platinum Blue Cross-Blue Shield Policy for staff, P910PFR
- Job Description and Job Posting for General Manager
- Policies: Rules and Procedures for Meetings of the Board, Policy Records Access and Procedure, Uniform Complaint Procedure, and approval of contract from Civics Plus-Municode for hosting a Standard Design Website and Board Management Software

Additional agenda items may include:

- Approval of the consent agenda including minutes of the November 29, 2021 meeting, November prepaid bills for approval, November bills for approval, Profit and loss statement November 2020-November 2021
  - Review of the audit report prepared by Anderson ZurMuehlen
  - Finance Committee Report: Laura Drager, Chair
  - Review of applications received for General Manager
  - Bylaws and Governance Committee Report: Pam Ellis, Chair Approval of proposed procedure for interviewing and hiring a new General Manager
  - Contract and appointment of an interim manager and hiring Justin Stark and Hendrickson Law firm to respond to Cause No.D V 2 1 0 1 4 9 filed by Plaintiffs JEFF ENGEL, BRANDON HURST, DENNIS COOK, and TOM ZURBUCHEN against the County Water District of Billings Heights in MONTANA THIRTEENTH JUDICIAL DISTRICT COURT YELLOWSTONE COUNTY on December 10, 2021
  - Discussion with Andrew Rheem, rate consultant with Raftelis
  - Safety Committee Report: Jeff Engel, Chair
  - Other agenda items included from staff or Board members
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  - Safety Committee Report: Jeff Engel, Chair
  - Other agenda items included from staff or Board members

12/3, 12/10

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# COUNTY WATER DISTRICT OF BILLINGS HEIGHTS

## Board of Directors Meeting Agenda

Supporting Documents maybe downloaded

<https://www.dropbox.com/sh/a07viwhq1wrago5/AACTsEclSq6n1ukMRarxDYiUa?dl=0>

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Location: Board Room, County Water District of Billings Heights 1540 Popelka Dr.

Date: December 15, 2021

Time: 6:00 p.m.

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**CALL MEETING TO ORDER:** President Ming Cabrera

### **WELCOME AND INTRODUCTIONS**

**PRESIDENT'S REMARKS:** Ming Cabrera

During the course of the meeting the Public may be heard before a vote is cast by the Board. The President will acknowledge the Public once the motion has been made and discussed by Board for their input. The President will recognize speakers who raise their hand. Once recognized, the speaker should move to the side of the board table so comments can be heard, identify themselves by name, and limit their comments to two minutes. Each speaker will have one opportunity to speak on any agenda item.

**NOTE:** Dennis Cook requested an excused absence for pre-planned foot surgery to repair an Achilles tendon for Dec. 14th which will require him to miss the Dec. 15th meeting. Seven to eight week recovery time expected.

### **I. PUBLIC COMMENT on "NON-PUBLIC HEARING" Agenda Items**

1. Any member of the Public may be heard on any subject that is not on the Agenda.
2. The board will not take action on these items at this time but may choose to add an item to the next meeting's Agenda for discussion.

### **II. Ratification of Board Actions on November 29, 2021** Members of the Public who were not present at the Board Meeting on November 29, 2021 may comment on any of the Board actions listed below. The Board will approve by unanimous consent any items not receiving public comment. The Board will vote again on any items that receive public comment. Each member of the public can comment once on any given agenda item.

Recommended motion: having conducted a public hearing, considered written and spoken public testimony, I move to reaffirm the following motions approved at the November 29, 2021 Board meeting (list the number of all actions not receiving public testimony)

Recommended motion: having conducted a public hearing, considered written and spoken public testimony, (required to reconsider any item receiving public testimony)

**1. By-laws**

1. Pam Ellis made the motion: Having conducted a public hearing, considered written and spoken public testimony, I move to adopt the By-Laws of the County Water District of Billings Heights dated November 19, 2021.
2. Motion Seconded by David Graves
3. MOTION TO APPROVE THE BYLAWS drafted on November 19, 2021: Approved 4:0

**2. REMOVAL OF PRESIDENT**

1. Pam Ellis made the motion: having conducted a public hearing, considered written and spoken public testimony, I move to remove Dennis Cook as President of the County Water Board of Billings Heights. I nominate Ming Cabrera as President of the County Water Board of Billings Heights.
2. Seconded by Dave Graves.
3. MOTION TO Removing Dennis Cook as President and appointing Ming Cabrera: Approved 4:0

**3. REMOVAL OF THE VICE PRESIDENT**

1. Pam Ellis made the motion: Having conducted a public hearing, considered written and spoken public testimony, I move to remove Brandon Hurst as Vice-President of the County Water Board of Billings Heights. I nominate David Graves as Vice President of the County Water Board of Billings Heights.
2. Seconded by Ming Cabrera.
3. MOTION Removing Brandon Hurst as Vice-President and appointing David Graves: Approved 4:0

**4. APPROVAL OF CONTRACT FOR ATTORNEY MARK NOENNIG**

1. Laura Drager made the motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve Resolution 006-21 to Authorize Engagement of Mark Noennig, HENDRICKSON LAW FIRM, P.C.208 NORTH BROADWAY, SUITE 324 P.O. BOX 2502 BILLINGS, MT 59103-2502 as Counsel for meeting protocol and bylaws, settlement of pending litigation with the City of Billings, and preparation of contracts for general and interim managers.
2. Seconded by Dave Graves.
3. MOTION to hire Mark Noennig as Counsel for meeting protocol and bylaws, settlement of pending litigation with the City of Billings, and preparation of contracts for general and interim managers was approved unanimously.

**5. APPROVAL OF BOARD DIRECTION FOR RESOLVING THE FEE DISPUTE WITH THE CITY OF BILLINGS**

1. Laura Drager made the motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approving Resolution 007-21 to Direct Mark Noennig, Counsel for meeting protocol and bylaws, settlement of pending litigation with the City of Billings, and preparation of contracts for general

and interim managers, to prepare a settlement agreement in cooperation with representatives from the City of Billings to settle the fee dispute for the amount due for unbilled water provided to the District TOTAL: \$2,970,599.35 with no additional late fees or penalties, pending a review of the court records and discussion with prior counsel. The settlement agreement will include an agreement to renegotiate the contract in 2022 when the new General Manager has been hired and may include resolution of the right-of-way issues and other issues identified by either party.

2. Seconded by Ming Cabrera.
  3. Laura Drager called the question to approve Resolution 007-21 to Direct Mark Noennig, to prepare a settlement agreement in cooperation with representatives from the City of Billings to settle the fee dispute for the amount due for unbilled water provided to the District TOTAL: \$2,970,599.35 with no additional late fees or penalties, pending a review of the court records and discussion with prior counsel. The settlement agreement will include an agreement to renegotiate the contract in 2022 when the new General Manager has been hired and may include resolution of the right-of-way issues and other issues identified by either party. Approved unanimously.
6. APPROVAL OF A NEW LEGAL COMMITTEE TO MEET WITH LEGAL COUNSEL MARK NOENNIG
1. Laura Drager made the motion to appoint David Graves, Pam Ellis and Jeff Engel
  2. Pam Ellis seconded the motion.
  3. Motion to Approve a New Legal Committee aApproved unanimously.
7. Approve of the Consent Agenda from November 29, 2021
8. Minutes of the October 20, 2021 Meeting (2)
- October Prepaid bills for approval
  - October Bills for Approval
  - October Bank Statements: First Interstate Bank (5) & 5a) Summary from accounting
  - Stifel Statement October provided by Stifel (NOT RECEIVED)
  - Profit and Loss Statement – Oct 2020 and Oct 2021
  - Approve the resignation of Jeff Weldon (8) and Consent to Withdraw Counsel
1. Laura Drager made the motion to approve the consent agenda.
  2. Seconded by David Graves
  3. Pam Ellis made a friendly amendment to add the bills from Main Street Printers for printing the documents for this meeting and the documents for November 17th. For November 17th, \$116.10. The documents for this meeting were \$194.10
  4. Laura Drager accepted the friendly amendment
  5. The Consent Agenda was approved unanimously.
9. Approval of the Annexation on behalf of Zackery D. Michalies, Homestead Subdivision submitted 10-19-2021
1. MOTION BY DAVID GRAVES: Having conducted a public hearing, considered written and spoken public testimony, I move to approve petition for annexation of behalf of

Zackery D. Michalies, 1637 Sagebrush Rd., Billings, MT 59105 Homestead Subdivision, Submitted 10-19-2021 and accept the fees paid of \$13,002.71.

2. Seconded by Laura Drager
3. Motion Approved Unanimously

10. Approval of Platinum Blue Cross-Blue Shield Policy P910PFR and Renewal of Guardian Dental and Vision Insurance

1. Motion: Laura Drager made the motion, having conducted a public hearing, considered written and spoken public testimony, I move that we keep the insurance as is for 2022. RESOLUTION 009-21
2. Seconded by Ming Cabrera.
3. Discussion: Ming thanked the staff and public for attending the meeting. This board is trying to make the decisions in public. We want you here and we want you happy. That's why I seconded the motion knowing it is really important.
4. Motion approved unanimously

11. Approval of Job Description

1. MOTION Laura Drager moved that we accept the General Manager Job Description as written.
2. SECOND David Graves
3. MOTION APPROVED UNANIMOUSLY

12. Approval of Job Posting for General Manager and Payment of Fees Required to Post

1. MOTION Pam Ellis made a motion which was clarified by Laura Drager to advertise in the Yellowstone County News, AAWA, Montana Rural Water, Indeed, Zip Recruiter, Linked In, and Job Service. The position will be opened until filled. The Board will begin reviewing applications on December 15th.
2. SECONDED by David Graves
3. MOTION APPROVED UNANIMOUSLY
4. CLARIFY WHO IS GOING TO DO THE POSTING Pam Ellis will send the posting to John Rife. Pam Ellis will send to the Yellowstone County News. Laura will complete the additional posting with assistance from Pam Ellis if needed. Laura said the fee for AAWA is \$699. Ming said that would be the group with the most clout because they are the most involved with water districts. That posting would be disseminated nation wide.
5. MOTION Pam Ellis made the motion to pay the \$699 to AAWA and any other fees required to post the job.
6. SECOND Laura Drager
7. MOTION APPROVED UNANIMOUSLY

13. Adoption of TRUSTEE AND MANAGER POLICIES Rules and Procedures for Meetings of the CWDBH Board

1. Recommended motion by Pam Ellis: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the TRUSTEE AND MANAGER POLICIES Rules and Procedures for Meetings of the CWDBH Board.
2. SECOND by Dave Graves
3. MOTION APPROVED UNANIMOUSLY

14. Adoption of Policy Records Access and Procedure

1. Recommended motion by Pam Ellis: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the Policy Records Access and Procedure.
2. SECOND by Dave Graves
3. UNANIMOUS APPROVAL

15. Adoption of Uniform Complaint Procedure

1. Recommended motion by Pam Ellis Having conducted a public hearing, considered written and spoken public testimony, I move to approve the Uniform Complaint Procedure.
2. SECOND by Laura Drager
3. UNANIMOUS APPROVAL

16. Approval of Contract from Civics Plus-Municode for hosting a Standard Design Website and Board Management Software

1. Recommended motion by Pam Ellis: Having conducted a public hearing, considered written and spoken public testimony, I move to approve Resolution 008-21, the contract from Municode for hosting a Standard Design Website and Board Management Software for a total of \$8250 for year 1; year 2 and beyond \$4500 per year.
2. SECOND by Ming Cabrera
3. UNANIMOUS APPROVAL

**III. NEW BUSINESS**

1. Approval of Contract for Interim Manager (3)

i. Larry's Background

Larry was born in southern Idaho and was the 4th of 9 children. He has been happily married to his beautiful wife for 47 years. He has raised two great kids who went to grade school in the heights and graduated from Skyview High School. Larry attended the VO tech at Idaho State University and served in the US Army 1969-1972.

After serving in the military, Larry worked for Cable TV in Helena for 5 years. He was hired by NorthWestern Energy (Montana Power at the time) in 1982 and transferred to Billings in 1987. Larry retired in 2017 after nearly 35 years of work. The last 12 years Larry worked as the manager of the telecom department.

Larry was elected to the school board in 1993 served for six years. While on the school board, he served as a board member of the Montana School Boards association with one year as President of the organization.

Larry was appointed to the Billings City Council and served there for 11 years, including as two terms as Deputy Mayor.

Larry has been an active member of the Heights task force since it was founded. He believes it is a great organization that helps people connect on Heights issues.

- ii. Recommended Motion: I move to employ Larry Brewster an Interim General Manager for the County Water District of Billings Heights, effective December 16, 2021 and direct President Ming Cabrera and Attorney Mark Noennig to sign the employment agreement.
- iii. Recommended Motion I move to approve Resolution 010-21 to Authorize Employment Agreement for Interim General Manager appointing Larry Brewster with compensation of \$7500 per month pursuant to the procedures regularly established and as they may be amended by the District in its sole discretion. (4)

DISCUSSION: What information or direction does the Board have for the Interim General Manager?

2. Response to Cause No.D V 2 1 0 1 4 9 filed by Plaintiffs JEFF ENGEL, BRANDON HURST, DENNIS COOK, and TOM ZURBUCHEN against the County Water District of Billings Heights in MONTANA THIRTEENTH JUDICIAL DISTRICT COURT YELLOWSTONE COUNTY on December 10, 2021 (13)

Background General Allegations

1. Plaintiffs Jeff Engel, Brandon Hurst, and Dennis Cook are board members for the Billings Heights Water District.
3. Plaintiff Tom Zurbuchen is a resident who receives services from the Billings Heights Water District.
4. Defendant County Water District of Billings Heights ("District") is a county water district located in Yellowstone County, Montana and is duly incorporated.
5. This Court has jurisdiction over this matter and venue is proper.
6. On November 29, 2021 the District held a meeting not in conformance with its operating rules and without providing proper notice.
7. Further the District failed to properly furnish an agenda to the public and to Tom Zurbuchen which would have enabled him to participate in the public meeting.
8. District's actions were made in violation of the provisions of Montana Code
9. Annotated, Title 2, Chapter 3.

JURY TRIAL DEMANDED

Prayer for Relief

WHEREFORE, Plaintiff prays for Judgment as follows:

1. Any actions taken by the District on November 29, 2021 be declared void;
2. For such costs of suit, fees, such other and further relief as the Court deems just in equity and law on the facts established in this cause;
3. Attorney's fees; and
4. For such other relief as the Court deems just and proper.

DATED this 9th day of December 2021.

TOLLIVER LAW FIRM, P.C.

P.O. Box 1913

Billings, MT 59103-1913

Recommended motion Having conducted a public hearing, considered written and spoken public testimony, I move to employ Justin Stark and the HENDRICKSON LAW FIRM, P.C. 208 NORTH BROADWAY, SUITE 324 P.O. BOX 2502 BILLINGS, MT 59103-2502 @ an hourly rate of \$185 per hour and to approve Resolution 013-21 to Authorize a contract for representation with Justin Stark and the Hendrickson Law Firm.

Recommended motion Having conducted a public hearing, considered written and spoken public testimony, I move to approve a monthly fee of \$100 per month for the Yellowstone County News to maintain a separate page at <https://www.yellowstonecountynews.com/county-water-district-of-billings-heights/> that includes the agenda and minutes and other notices for the County Water District of Billings Heights until cancelled and to approve Resolution 014-21 to approve a monthly payment to Yellowstone County News for maintaining a page on their website.

**IV. OLD BUSINESS: Discussion with Andrew Rheem, Raftelis**

1. BACKGROUND At the November 29, 2021 meeting, the board unanimously approved the motion by Pam Ellis and seconded by Laura Drager: Having conducted a public hearing, considered written and spoken public testimony, I move to direct Raftelis to stop further work on the proposed City of Billings wholesale water rate increase of 30.6%, scheduled to begin July 1, 2022. The General Manager may review the work completed by Raftelis with the Board and make a recommendation to the Board at a later date. President Ming Cabrera called Andrew Rheem on November 30, 2021, sharing the Board’s concern and the direction to do no further work until the Board met with Andrew.

**II. OLD BUSINESS:**

1. **Raftelis Summary prepared for November 29, 2021 meeting** (16) attached

**BACKGROUND: Amount remaining on the Raftelis contract (10/15/2021) \$39,667.50**

Interstate Engineering	10/18/2021	\$2,771.00	Project support to Raftelis for Rate Study & NW Transmission Modeling
Interstate Engineering	9/23/2021	\$2,440.50	Project support to Raftelis for Rate Study & NW Transmission Modeling
Raftelis	10/11/2021	\$10,332.50	Billings to date
Raftelis	12/9/2021	\$1,140.00	
	<b>TOTAL</b>	<b>\$16,684.00</b>	

**SUPPORT DOCUMENTS:** emailed to Duke Nieskens, Peyton Brookshire and Pam Ellis by Jennifer Duray, November 19, 2021 Digital copies should be available from the district

- 2\_Water System Overview Final Draft
- 3\_Water Demand Forecasting Final Draft
- 4\_Water System Evaluation Criteria Final Draft
- 05\_Hydraulic Water Model Final Draft



- 06\_Operation Analysis\_Final Final Draft
- 08\_Storage Analysis Final Draft
- 09\_Distribution System Expansion Final Final Draft
- 10\_Water System Resiliency Final Draft
- Water Map
- WTP to Distribution
- Pages from 06\_Operation Analysis\_Final Final Draft
- WO1942 WEWTP Preconstruction Contract (executed)
- WO1912 WERWP Pre-Construction Contract, COP (executed)

2. Recommended Motion: I move that Andrew Rheem meet with Interim General Manager Larry Brewster to discuss the progress to date. Based on the conversation and review of the record, Larry Brewster may direct that additional work cease or continue. Larry Brewster will prepare a written recommendation to the Board for the January 19, 2022 meeting. Mr. Brewster may also recommend a special meeting.

#### V. CONSENT AGENDA (# supporting documents available at the dropbox link above)

1. Minutes of the November 29 2021 Meeting (2)
2. November Prepaid bills for approval (5)
3. November Bills for Approval (6)
4. November Bank Statements: First Interstate Bank (7)
5. Stifel Statement November provided by Stifel( 8)
6. Profit and Loss Statement – November 2020 and November 2021 (9)
7. Main Street Printers (print Minutes of November 29, 2021 meeting and agenda for December 15, 2021)
8. Reimburse Laura Drager for expenses incurred posting the job notice for General Manager

#### VI. BOARD REPORTS

1. FINANCE COMMITTEE: Laura Drager
  1. Treasurer’s Summary Report as of November 30, 2021
  2. AZ Audit Discussion and Review
  3. Insurance Update (10)

Background: In speaking with other General Manager’s of water districts in Montana, Laura Drager discovered the one area we are lacking in employee benefits is our disability insurance. Eric Allen, the Insurance Specialist with Allen & Associates Insurance wrote: “The rates look really good as well. \$216.66/month for Short Term Disability and \$280.21/month for Long Term Disability. Looks like they did a 60% benefit up to \$6K/month on Long Term and 60% up to \$1K/week for Short Term.” (11)

Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move that the Board approve Resolution 011-21 to provide short-term disability insurance with Guardian Insurance for 8

employees for a monthly premium of \$216.66; and an annual premium of \$2,599.92.

Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move that the Board approve Resolution 012-21 to provide long-term disability insurance with Guardian Insurance for 8 employees for a monthly premium of \$280.21; and an annual premium of \$3,362.52 (12)

2. BYLAWS AND GOVERNANCE COMMITTEE: Pam Ellis

1. Report from Ming Cabrera, Laura Drager, Pam Ellis regarding Posting the Notice to Hire a General Manager and updates on responses to date. The Committee will review applications beginning December 16, 2021.
2. Appointment of Committee to Work with Interim General Manager to establish the process including:
  - a) Checklist to review written applications for thoroughness and rating for review
  - b) Procedure for initial reference check to affirm employment history and recommendations
  - c) Review of applications by the full board in executive session
  - d) Interview process for finalists selected including specific interview questions to be asked of each candidate
  - e) Opportunity for the public to observe interviews with the finalists and comment
  - f) Verification of verification of educational certifications and official education transcripts, pass a medical exam including a drug and alcohol screen, and a complete background check prior to the Board approving an Employment Contract.

Recommended Motion: I move that the Board approve appointment of Ming Cabrera, Laura Drager and Pam Ellis to draft a procedure for hiring a General Manager to be approved by the Board at the January 2022 meeting or a properly noticed special meeting.

3. Safety: Jeff Engel

Jeff Engel sent the Board via email a reference to a book related to the Safety Committee. Jeff hadn't reviewed and discussed with Clay McCaffree when he filed his report for the November Board mtg. The field manual is a standard book for utilities and contains 52 weekly subjects for safety meetings. Exceptions to this order of events would be any specific subject matter that may come about as a result of a specific daily activity or emergency. Possibly office staff could make copies so all can see some of the safety meeting procedures currently in place by field staff.

- *Let's Talk Safety: A Series of 52 Talks on Common Utility Safety Practices* 2009 AAWA
- *Week 49: Hypothermia A Winter Safety Hazard*, p 113

At the November 29, 2021 Board meeting Dave Graves asked what the staff recommends to help with the safety committee. The response is that the record speaks for itself. Weekly meetings keep us up to date and training on the job site.

Josh Simpson recommended that the staff submit a quarterly report to the Board prepared by Jeff Engel.

MOTION: Ming Cabrera moved that the Board Safety Chair prepare a quarterly safety report in March, June, September and December.

SECOND David Graves

UNANIMOUS APPROVAL

- VII. GENERAL MANAGER OR ASSISTANT MANAGER REPORTS: RECEIVED 4 HOURS LATE; ADOPTED BOARD POLICY REQUIRES INFORMATION FOR THE AGENDA TO BE RECEIVED BY NOON FRIDAY BEFORE THE NEXT MEETING (15)**  
See final pages of this document

**VIII. ANNOUNCEMENTS**

The County Water District advertised for bids of the Water System Improvement Project to provide upgrades to the District's potable water reservoirs until Three O'Clock Local Time on Wednesday, January 19<sup>th</sup>, 2022.

- Pre-Bid Conference held at the Ox Bow Reservoir site, 3500 Hawthorne Lane, Billings MT on Wednesday, January 12<sup>th</sup>, 2022 at 1:30 PM
- Bids will be publicly opened and announced by the County Water District of Billings Heights at Three O'clock Local Time on Wednesday, January 19<sup>th</sup>, 2020

**IX. ITEMS TO BE CONSIDERED AT FUTURE BOARD MEETINGS**

Note: No action can be taken on items that were not on the agenda.

**X. ADJOURN**

COUNTY WATER DISTRICT OF BILLINGS HEIGHTS  
EMPLOYMENT AGREEMENT – INTERIM GENERAL MANAGER

This Employment Agreement (herein, "Agreement") is made and entered into as of the 15<sup>TH</sup> day of December, 2021 by and between COUNTY WATER DISTRICT OF BILLINGS HEIGHTS (hereinafter, the "District") and LARRY BREWSTER (hereinafter, "Employee").

District and Employee are each referred to herein as a "Party" and collectively as the "Parties."

## RECITALS

WHEREAS, District wishes to engage the services of Employee as the General Manager of the District and to induce the Employee to remain in such position on the terms and conditions set forth in this Agreement;

WHEREAS, Employee represents and warrants that he has the skill and ability to serve in such position and wishes to accept such employment on the terms and conditions set forth in this Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the above recitals (which are hereby incorporated by reference into this Agreement) the mutual covenants herein contained, and other good, valuable, and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereto agree as follows:

### SECTION I . EMPLOYMENT.

A. The District hereby offers and the Employee hereby accepts the position of Interim General Manager of the District. Employee shall perform the duties and responsibilities imposed by law, industry standards, and responsibilities and duties as specified in Exhibit A, and such legally permissible further duties and functions as shall, from time to time, be assigned by the Board of Directors of the District.

B. Employee shall devote such time, interest, and effort to the performance of his duties as may be reasonably necessary to fulfill the above requirements, Employee agrees to perform such services to the best of his ability, in an efficient and competent manner. Without limiting the generality of the foregoing, Employee understands and agrees that this position is an exempt, salaried, full-time position.

### SECTION 2 DUTIES AND OBLIGATIONS OF EMPLOYEE

A. Employee shall serve as the Interim General Manager of the County Water District of Billings Heights. In his capacity as Interim General Manager, Employee shall be the Chief Executive Officer of the District. Employee shall do and perform all services, acts, or things necessary or advisable to manage and conduct the business of District, including hiring and firing of all employees other than the officers of District, subject at all times to the policies set by District's Board of Directors, and to the Rules, Regulations, Policies, and Ordinances of the District, and in conformance with State and Federal laws.

### SECTION 2. TERM AND RENEWAL.

A. This Agreement shall be effective as of December 16, 2021 (the "Anniversary Date"). The term of this Agreement shall be until the Board of Directors of the District hires a General Manager, unless sooner terminated or extended by the Parties as set forth in this Agreement. Until and unless Employee is hired as permanent General Manager, the entire term of employment hereunder shall be considered the probationary period.

### SECTION 3. TERMINATION AND SEVERANCE PAY.

A. It is expressly understood that Employee, in his capacity as Interim General Manager, is a contracted employee serving at the pleasure of the Board, subject to termination pursuant to the terms of this Agreement, and with no right to any hearing or appeal, other than the rights expressly provided in this Agreement.

B. This Agreement shall automatically terminate upon Employee's death, retirement, or permanent incapacity.

C. The Employee serves at the will and pleasure of the Board. At any time during the term of this Agreement or any extension thereof, the Board reserves the right to terminate the employment of Employee, with or without cause, and determine his last day of employment upon the vote of four or more Board members at a duly called and noticed Board meeting. The District agrees, however, to refrain from voting on the issue of Employee's termination without cause in any sixty (60) day period immediately following a new Board member's installation so that said new Board member may have sufficient time to apprise himself or herself of Employee's performance prior to vote.

D. The Employee may terminate this Agreement upon written notice to the Board and shall give sixty (60) days prior written notice. The District shall have the option, in its complete discretion, to terminate the Employee any time prior to the end of such notice period, provided the District pays the Employee all compensation due and owing through the last day actually worked, plus an amount equal to the base salary the Employee would have earned through the remainder of the notice period. Thereafter, all the District's obligations under this Agreement shall cease.

### SECTION 4. COMPENSATION.

The District agrees to pay Employee for services rendered pursuant hereto at a rate of \$7500 per month, pursuant to the procedures regularly established and as they may be amended by the District in its sole discretion. Any agreed salary increase must be expressly memorialized in a subsequent written and executed Amendment to this Agreement. All compensation and comparable payments to be paid to Employee shall be less withholdings required by law.

### SECTION 5. BENEFITS

In addition to the compensation set forth in Section 4 the Employee shall be entitled to the following benefits:

A. Retirement Benefits. None

B. Vacation. None

C. Sick Leave None

D. Job-Related Expense Reimbursement. The District will pay the Employee's business expenses incurred in connection with District business.

E. Technical Equipment. Upon commencement of employment, the District shall provide the Employee with a cell phone and such technical equipment as may be necessary for the performance of his duties.

F. Automobile Allowance. The Employee agrees to use his the district owned vehicle purchased for use by the General Manager.

G. Other Benefits, Where not in conflict with the provisions of this Agreement, Employee shall be eligible and participate in the same benefits offered to employees at the District, including but not limited to paid holidays and other such ancillary benefits. Nothing about the provision of such other benefits shall be interpreted to prevent the performance of any duty set forth in this Agreement.

#### SECTION 7. OFFICE HOURS.

Employee shall report to District's offices during normal business hours consistent with the District's schedule and at such other times as may be necessary to discharge his duties, except when away on approved business for the District, as otherwise excused by use of approved leave, or during District-granted holidays. However, Employee agrees and understands that he will report to work when necessary to District operations, regardless of regularly scheduled hours, scheduled leave, or holiday, to the extent such attendance is reasonably possible.

IN WITNESS WHEREOF, COUNTY WATER DISTRICT OF BILLINGS HEIGHTS has caused this Agreement be duly executed by its President and the Employee has signed and executed this both in duplicate, as the day and year first above written.

DISTRICT:

COUNTY WATER DISTRICT OF BILLINGS HEIGHTS

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

Ming Cabrera  
President of the Board of Directors of the District

EMPLOYEE

LARRY BREWSTER

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

Larry Brewster

APPROVED AS TO FORM:

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

Mark Noennig  
District Counsel

# EXHIBIT A – JOB DESCRIPTION INTERIM GENERAL MANAGER

County Water District of Billings Heights

## GENERAL MANAGER DUTIES AND EVALUATION

### BOARD POLICY NO.

Job Title: General Manager  
Reports To: Board of Directors  
FLSA Status: Exempt  
Prepared by: District Board  
Prepared date: November 29, 2021

#### Primary Objective

This General Manager serves as the chief executive officer of the District under the direction of the District Board of Directors. The General Manager is responsible for all aspects of the efficient and cost-effective operations and administration of the District.

In accordance with the policy guidelines of the Board of Directors and consistent with Federal and State regulations, the General Manager plans, implements, and directs the operations of the District's water system in a manner that insures service to customers, ongoing maintenance of systems and equipment, and sound development for the future. Quality decision making and judgment are expected and required.

#### Essential Skills Required

- Possess the ability to analyze, evaluate, write, and understand budgets and rate structures.
- Be able to monitor construction projects, as well as the maintenance and operation of water facilities.
- Possess the ability to handle accounting and payroll functions in accordance with government accounting guidelines.
- Be available for 24-hour on-call for emergencies except when previous arrangements are made with other district employees.
- Submits to random alcohol and drug testing per District regulations.
- Ability to work with mathematical concepts such as probability and statistical inference, and fundamentals of plane and solid geometry and trigonometry. Ability to calculate figures and amounts such as proportions, percentages, area, circumference, and volume. Ability to apply concepts such as fractions, percentages, ratios, and proportions to practical situations.



- Ability to solve practical problems and deal with a variety of concrete variables in situations where only limited standardization exists. Ability to interpret a variety of instructions furnished in written, oral, diagram, or schedule form.
- Physical requirements include the ability to reach, twist, stand, balance, bend, stoop, crouch, crawl, walk, or climb in a variety of indoor and outdoor environments and weather conditions, and lift weights up to 50 lbs. (greater with assistance), and manual dexterity to perform computer and cell phone tasks. Sensory abilities include smelling, hearing, close vision, distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus. Reasonable accommodations may be made to enable individuals with disabilities to perform essential functions.

Areas of Accountability and Performance:

Following directions from the Board of Directors the General Manager will:

- Develop rate structures as required by Montana law.
- Develop projections for current and future needs in the areas of staff, capital improvement projects and finances for 2 years, 5 years and 10 years.
- Monitor construction projects, as well as the maintenance and operation of water facilities.
- Maintain accounting and payroll functions in accordance with government accounting guidelines.
- Administer, supervise, plan, direct, and coordinate the water systems and office, delegating tasks as needed.
- Maintain familiarity with the rules and regulations of the District in order to enforce them and to answer questions from customers or developers.
- Meet and work with consultants and/or engineers to further the goals and needs of the District and its projects.
- Demonstrate the ability to read and interpret plans and specifications, and to locate lines for construction purposes.
- Work closely with Montana Rural Water and other agencies, attending related onsite and off-site meetings, seminars and training as often as possible in order maintain certifications and to be current on regulations and legislation at the state and federal levels in the water and wastewater fields.
- Is responsible for the timely filing of any necessary District reports to County, State and Federal agencies.
- Assists in preparation of the agenda and resolutions for the monthly Board meetings in compliance with board policy. Attends every board meeting and is prepared to discuss in detail the implications on District operations of any agenda item.
- Initiates, plans, develops, and implements records and reports for the Board of Directors
- Organizes and prepares financial reports, minutes, correspondence and other documents for board action, and performs other duties as assigned by the Board of Directors
- Is responsible for all facilities, property, and equipment of value.
- Provides thought-out and sound advice and counsel to the Board of Directors in relation to projects, developments, and improving District functions
- Recommends priorities for short- and long-range projects, and coordinates implementation as required.
- Is responsible for developing, preparing, and recommending a comprehensive budget and rate structure with supporting data for the District.
- Serves as a liaison and advisor for the District with consulting engineers, government agencies, developers, and any others as need arises.
- Recommends purchases of new and replacement equipment as the result of continuous appraisal of the working and functionality of District facilities and equipment.

- Is responsible for timely and accurate meter reading, accounting and payroll tasks for the District as well as the billing and collection of accounts.
- Is responsible for establishing a high level of customer service and maintaining quality contacts with the public, District customers and the Board

### Supervision-Responsibility for Work of Others

#### The General Manager

- Administer all personnel matters of the District including supervision and direction, orienting, training, discipline, evaluation of performance and related matters, delegating tasks as needed. (Exception: The Board Secretary reports directly to the Board of Directors) • Prepares written job descriptions for each employee and an annual employee evaluation
- Develop and maintain job descriptions for all district personnel
- Assign employee tasks to assure effective use of personnel, equipment, and facilities.
- Is responsible for using and instructing others in the proper use of safety equipment and procedures to prevent injury.
- Help maintain a professional atmosphere and positive morale among employees.
- Cross-train with other employees to maintain staffing requirements during periods of transition, vacations, or other absences.
- Periodically reviews logs and journals completed by other personnel.
- Is responsible for employee hiring, evaluations, additional training, advancement, promotions, wage increases, and terminations.
- Is responsible for preliminary review and management of all employee related plans and insurance programs, which are a part of the employee compensation package.
- Assess and suggest changes to the rate and structure of employee pay scales and compensation.
- Is responsible for ensuring employees obtain certification in the water field, and continue and maintain their education as required for their certifications.

### Education, Training and Experience Requirements:

#### The General Manager possesses

- Any combination of education and experience equivalent to high school graduation and some college training in the areas of business administration. A degree in engineering is preferred.
- At least five years of progressively responsible experience involving the management of materials, personnel, budgets, rates, and purchasing in a water system.
- Valid Montana Water Operator Certifications appropriate for the District's classifications (certified within 180 days of position acceptance)
- Technical proficiency with computers and software
- Must possess a valid state of Montana driver's license with an insurable record

Evaluation of the General Manager

At least annually, at or near the employment anniversary date of the General Manager, the Board will meet in executive session for the purpose of evaluating the performance of the General Manager.

The Board will summarize the results of their individual evaluations and arrive at a consensus as to the overall performance of the General Manager. The results of the evaluation will be communicated to the General Manager.

The Board President shall ensure that the provisions of this policy are followed.

Adopted: November 29, 2021


Revised:

Reference: CWBDH Policy

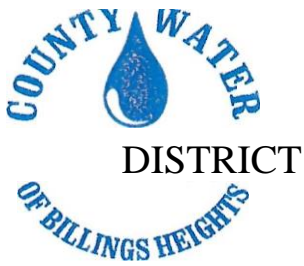
Review Date:

Attest: /s/ 

Board President Ming Cabrera

Attest: /s/ 

Secretary



Resolution 010-21 to Authorize Employment Agreement for Interim General Manager with Larry Brewster with compensation of \$7500 per month pursuant to the procedures regularly established and as they may be amended by the District in its sole discretion.

WHEREAS, the County Water District of Billings Height Board interviewed Larry Brewster as a candidate for Interim General Manager and reviewed the County Water District of Billings Heights Employment Agreement – Interim General Manager:

The Board authorized signing the contract to employ Larry Brewster as Interim General Manager.

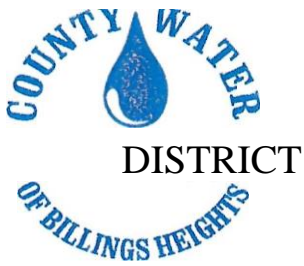
That, the President of the County Water District of Billings Heights, sign the employment agreement on behalf of the board.

Signed: \_\_\_\_\_

Ming Cabrera, President

Date: December 15, 2021

Attested: \_\_\_\_\_



Resolution 011-21 to Authorize purchase of Short-Term Disability Insurance through Guardian Insurance

WHEREAS, the County Water District of Billings Height Board consider written and spoken testimony at a meeting of the County Water District of Billings Heights Water Board on December 15, 2021.

The Board authorized signing the contract to provide short-term disability insurance with Guardian Insurance for 8 employees for a monthly premium of \$216.66; and an annual premium of \$2,599.92.

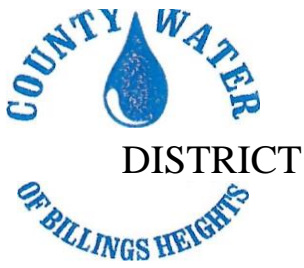
That, the President of the County Water District of Billings Heights or his designees, sign the resolution and Guardian Short-Term Disability contract on behalf of the board.

Signed: \_\_\_\_\_

Ming Cabrera, President

Date: December 15, 2021

Attested: \_\_\_\_\_



Resolution 012-21 to Authorize purchase of Long-Term Disability Insurance through Guardian Insurance

WHEREAS, the County Water District of Billings Height Board consider written and spoken testimony at a meeting of the County Water District of Billings Heights Water Board on December 15, 2021.

The Board authorized signing the contract to provide long-term disability insurance with Guardian Insurance for 8 employees premium of \$280.21; and an annual premium of \$ \$3,362.52.

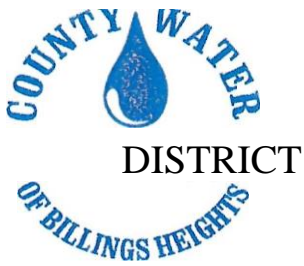
That, the President of the County Water District of Billings Heights or his designee, sign the resolution and Guardian Long-Term Disability contract on behalf of the board.

Signed: \_\_\_\_\_

Ming Cabrera, President

Date: December 15, 2021

Attested: \_\_\_\_\_



Resolution 013-21 to Authorize a contract for Justin Stark and the Hendrickson Law Firm to represent the District in responding to Cause No.D V 2 1 0 1 4 9 filed by Plaintiffs JEFF ENGEL, BRANDON HURST, DENNIS COOK, and TOM ZURBUCHEN against the County Water District of Billings Heights in MONTANA THIRTEENTH JUDICIAL DISTRICT COURT YELLOWSTONE COUNTY on December 10, 2021

WHEREAS, the County Water District of Billings Height Board consider written and spoken testimony at a meeting of the County Water District of Billings Heights Water Board on December 15, 2021.

The Board authorized signing the contract to hire Justin Stark and the Hendrickson Law Firm of the HENDRICKSON LAW FIRM, P.C. 208 NORTH BROADWAY, SUITE 324 P.O. BOX 2502 BILLINGS, MT 59103-2502 @ an hourly rate of \$185 per hour

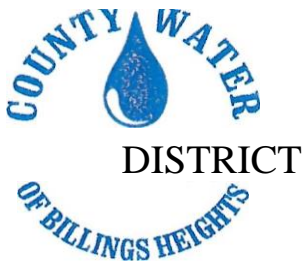
That, the President of the County Water District of Billings Heights, sign the resolution and an employment agreement on behalf of the board.

Signed: \_\_\_\_\_

Ming Cabrera, President

Date: December 15, 2021

Attested: \_\_\_\_\_



Resolution 014-21 to Authorize a contract with Yellowstone County News to maintain a page for the County Water District of Billings Heights on maintain a separate page at <https://www.yellowstonecountynews.com/> that includes the agenda and minutes and other notices for the County Water District of Billings Heights until cancelled

WHEREAS, the County Water District of Billings Height Board consider written and spoken testimony at a meeting of the County Water District of Billings Heights Water Board on December 15, 2021.

The Board authorized signing the contract Authorize a contract with Yellowstone County News to maintain a page for the County Water District of Billings Heights on maintain a separate page at <https://www.yellowstonecountynews.com/county-water-district-of-billings-heights/> that includes the agenda and minutes and other notices for the County Water District of Billings Heights until cancelled

That, the President of the County Water District of Billings Heights, sign the resolution on behalf of the board.

Signed: \_\_\_\_\_

Ming Cabrera, President

Date: December 15, 2021

Attested: \_\_\_\_\_



## NOVEMBER/DECEMBER MANAGERS REPORT

- ONE ANNEXATION PETITION FOR ZACH MICHALIES (SEE ATTACHED). ALL FEES PAID. \$13,022.71
- AFTER MANY MONTHS OF BADGERING THE TRUCK DRIVERS' INSURANCE COMPANY. IT HAS FINALLY
- REIMBURSED THE DISTRICT FOR THE FIRE HYDRANT DAMAGE ON MAIN STREET. WE HAD TO ASK IF IT NEEDED TO GO TO OUR ATTORNEY BEFORE FINALLY GETTING THE RESPONSE THAT THE PAYMENT WAS SENT. THE CHECK FOR \$52,661.13 WAS RECEIVED ON 11/2/2021
- RAFTELIS UPDATE: QUESTIONS HAVE BEEN SUBMITTED TO THE CITY FROM RAFTELIS. SEE LETTER. PLANNING ON DECEMBER 15TH TO BE AT THE BOARD MEETING TO DISCUSS WITH BOARD OR SOONER DEPENDING ON PROGRESS WITH THE CITY. see Report
- SERVICEMEN HAVE TRAINING ON THE AFTERNOONS OF NOVEMBER 30TH AND DECEMBER THIS SHOULD HAVE EVERYONE CAUGHT UP ON CEC'S FOR THE BIENNIUM.
- INTERSTATE ENGINEERING VIA BRAD BOEHM AND LOWELL THINK WE SHOULD LOOK AT ROUND TWO OF ARPA DUE TO NEW INFORMATION:
  - o FOR ROUND THE STATE DOC WILL COVER UP TO \$3,000 PER PROJECT FOR CONSULTING LABOR (OUR TIME) TO COMPLETE THE APPLICATION PROCESS ON YOUR BEHALF. WE WOULD HAVE A CONTRACT DIRECTLY
  - o WITH THE STATE FOR EACH OF YOUR APPLICATIONS. THE SECOND ROUND WILL BE DUE JANUARY 14TH, 2022
  - o THE STATE HAS OFFERED A DEBRIEFING CALL WITH ALL OF US TO DISCUSS WHY THE 1ST ROUND
  - o APPLICATION SCORED THE WAY IT DID AND THE BEST APPROACH TO MAXIMIZE YOUR SCORE IN THE 2ND
  - o ROUND. THE WORD ON THE STREET IS THAT THE DEBRIEFING IS VERY BENEFICIAL AND THEY HAVE BEEN PROVIDING HELPFUL ADVICE. ONCE WE HAVE THE DEBRIEF, WE CAN DECIDE HOW TO PROCEED WITH REVISING THE TWO 1ST ROUND APPLICATIONS TO INCREASE THEIR SCORES IN THE 2ND ROUND.
  - o ON 11/8/2021 MYSELF AND INTERSTATE ENGINEERING MET WITH ARPA OUTREACH PROGRAM SPECIALIST
  - o AND REVIEWED OUR APPLICATIONS AND RECEIVED RECOMMENDATIONS TO GET MORE POINTS AND WHAT THEY WERE LOOKING FOR AND THE SCORING METHOD IN EACH CRITERIA. UPON QUESTIONING DURING THE MEETING IT WAS ASKED WHY THE SPECIFICS WITHIN THE CRITERIA WAS NOT KNOWN PRIOR TO THE APPLICATION PROCESS AND IF IT WAS WHERE WAS IT AS NOBODY HAS FOUND IT YET AND WE ARE WAITING TO HEAR BACK.
- CREW REPLACED SERVICE LINE AT 2039 WILLET DRIVE.

- CANAL VISTA IS IN HYDRAULIC MODELING STAGES AND PLAN REVIEW. THIS PROJECT RESURFACED AFTER LANGUISHING IN COURT DISPUTES BETWEEN PROPERTY OWNERS FOR TWO YEARS.
- HR 3684 INFRASTRUCTURE AND JOBS ACT PASSED. DRINKING WATER STATE REVOLVING FUNDS 14.65 BILLION THROUGH 2026. 11.7 BILLION OF DRINKING WATER SRF, 49% IN FORM OF GRANTS OR LOANS WITH PRINCIPAL FORGIVENESS, ONLY 10% STATE MATCH REQUIRED IN FY'S 2022-2023. WE WILL BE IN TOUCH TO BE ON THEIR RADAR FOR UPCOMING POSSIBILITIES. SEE ATTACHED.
- THERE ARE LESS THAN 200 ACCOUNTS THAT RECEIVE THEIR BILLS VIA EMAIL SO THAT OPTION IS NOT VIABLE. WE MAY HAVE TO LOOK AT THE FACT THAT PEOPLE DID NOT OPT IN TO RECEIVE NOTIFICATIONS VIA TEXT OR EMAIL WHEN SIGNING UP FOR THE SERVICE SO MAY HAVE TO START FROM SQUARE ONE WHEN AND IF ENOUGH PEOPLE WANT BILLS.
- CREW MOVED THE 8 SERVICES ON GLENEAGLES INTO THE BOULEVARD.
- CREW DID REPAIRS ON LYNCH DRIVE AS WELL AS JOYCE ST AND CONTINUING LOCATES FOR CEC FOR THE FIBER JOB
- COP CONSTRUCTION COMPLETED PUNCHLIST ON HIGH SIERRA 10TH FILING. WALKTHROUGH COMPLETED WAITING ON SANDERSON STEWART FOR SIGN OFF.

- Legislative Advisory
- Who: U.S. Congress
- What: Infrastructure Investment and Jobs Act When: Passed Friday
- Late Friday, U.S. Congress passed HR3684, the Infrastructure Investment and Jobs Act. The act reauthorizes a number of existing drinking water programs, appropriates expanded funding, and commits \$15 billion for lead service line replacement.
- AV'MIA issued a statement today thanking Congress and President Biden for their support for water infrastructure renewal.
- AIAM, /A is grateful to its many members who actively supported this legislation through e-mails and calls to their members of Congress urging action on water infrastructure. Water infrastructure was a key topic during the virtual AWWA Water Matters! Fly In in April of this year.
- Below are highlights from Title I, the section authorizing drinking water programs and spending, as well as Division J, which actually makes money available:
- TITLE I - Drinking Water
  - \$75 million for technical assistance and grants for emergencies affecting public water systems, including natural hazards and cybersecurity
  - \$14.65 billion authorized for Drinking Water State Revolving
  - Fund (DWSRF) through 2026
  - \$510 million in assistance for small and disadvantaged communities
  - \$500 million for reducing lead in drinking water

- \$250 million to improve operational sustainability of small water systems
- \$250 million for the mid-size and large drinking water system resilience and sustainability program
- Authorizes needs assessment for a nationwide low-income water assistance program
- Authorizes 40 pilot low-income water assistance programs within 2 years of passage
- • \$200 million for lead testing and remediation in schools \$50 million for a study assessing emerging technologies that could address cybersecurity and water monitoring issues and a grant program to deploy technologies
- Appropriations (Division J)
  - • \$75 million for WIFIA, with \$11 million for administrative purposes, to be available until expended \$11.713 billion for the wastewater SRF
  - \$11.713 billion for the drinking water SRF; 49 percent to be in the form of grants or loans with principal forgiveness; only 10 percent state match required in FY2022 and FY2023
  - • \$15 billion for lead service line replacement, with 49 percent to be in the form of grants or loans with principal forgiveness; no state match required; \$3 billion annually for FY2022-20226 \$4 billion to be channeled through the drinking water SRF for emerging contaminants, all in the form of grants or principal forgiveness
  - \$5 billion to deal with emerging contaminants in economically distressed communities
  - \$1.126 annually in additional funding for the drinking water
  - • SRF through FY2026 \$1.6 billion annually in additional funding for the wastewater SRF through FY2026
  - □ Questions can be directed to Tommy Holmes or Nate Norris in AV%M/A's Government Affairs Office.

RAF TE LIS

November 5, 2021

Jennifer Duray, CPA

Deputy Public Works Director

City of Billings

210 North 27th Street

Billings, MT 59101

Subject: FY 2022 and FY 2023 City of Billings Water Rate Report Review

Dear Ms. Duray,

As you are aware, the County Water District of Billing Heights (Heights Water District or District) retained Raftelis to review the City's most recent water rate study report completed by AE2S

Nexus. The District would like to ensure that the rate recommendations are fair and equitable and consistent with the cost of providing wholesale water services to the District.

We were provided a copy of the Retail/Resale Water Rate Study Report FY 2022 and 2023 dated March 31, 2021. We have reviewed the report including the appendices and resulting recommendation to adjust the water rate assessed to the Heights Water District effective July 1, 2021 and July 1, 2022. On behalf of the District, Raftelis is requesting additional data not incorporated within the report as well as additional clarification questions regarding the underlying cost and rate drivers. The request is to better understand the basis and justification underlying the rate recommendations.

Please see the below for the requested items.

1. Please provide an electronic copy of the City's current Water System Master Plan. Please also provide a map of City water facilities including the connection point with the Heights water system.

2. Please provide monthly water production at City Water Treatment Plant for 2016 through 2020.

3. How much of the capacity of planned West End facilities are for growth and how much is for existing customers? Which zones will be served by the existing Water Treatment Plant and which zones will be served by the new West End Water Treatment Plant?

4. With regard to the timing and sequencing of the West End Capital projects:

a. What is the driver or need for each new major facility?

b. Why is the Water Treatment Plant being constructed before the reservoir?

c. How are District customers being served from West End facilities?

d. When will each project be completed and be in service?

e. The Water Treatment Plant and Reservoir include design costs with a one-year construction completion for these major projects. Which contracts have been issued and what is the construction schedule included in the signed contracts?

5619 DTC Parkway, Suite Greenwood Village, CO 80111 [www.raftetis.com](http://www.raftetis.com)

## COUNTY WATER DISTRICT OF BILLING HEIGHTS 2

f. What is the City's practice for accounting for capital facilities under construction and when facilities are formally booked as City assets?

5. In addition to what the City has identified in the adopted capital plan, what grant funding has been applied for by the City? Have any grants been approved? Are there applications submitted that are pending approval?

6. Table 2.3 of the March 2021 Retail / Resale Water Rate Study Report identifies peaking factors for Owner and Non-Owner customer classifications. What is the basis for the Resale water customer classification maximum day peaking factor of 2.60 times average day and maximum hour peaking factor of 3.83 times average day?

We appreciate your willingness to provide the requested information and address the questions we have posed. The District's goal is to better understand the major drivers of the substantial rate increases proposed to be effective July 1, 2022 to ensure that the rates are just and equitable. Toward that end, Raftelis, District staff, and District representatives are willing to meet with City staff and City representatives to discuss the rate report and the requested items after receiving a response from the City.

Please do not hesitate to contact me or the District if you have questions regarding this request and/or to schedule a time to meet in person or virtually.

My contact information is [arheem@raftelis.com](mailto:arheem@raftelis.com) or 303.305.1137.

Sincerely,

Andrew A. Rheem

Senior Manager