

Cynthia L. Walker
Poore, Roth & Robinson, P.C.
1341 Harrison Avenue
Butte, Montana 59701
Telephone: (406) 497-1200
Fax: (406) 782-0043

Attorneys for Employer

IN THE MATTER OF THE FACTFINDING HEARING
BEFORE GEORGE EDWARD LARNEY, FACT FINDER

HEBGEN BASIN RURAL FIRE DISTRICT,)	
)	
Employer,)	
)	
-and-)	
)	
INTERNATIONAL ASSOCIATION OF FIRE)	EMPLOYER'S POST-HEARING
FIGHTERS LOCAL 4432,)	BRIEF
)	
Union.)	
)	
)	

Hebgen Basin Rural Fire District (hereinafter referred to as "Employer" or "District") submits the following Post-Hearing Brief to Fact Finder George Larney.

I. INTRODUCTION

A factfinding hearing was held before Fact Finder George Larney on July 25, 2017, in West Yellowstone, Montana. Ricky J. Walsh represented the Union and Cynthia L. Walker represented the Employer. The parties' closing arguments were deferred to the post-hearing briefs which are required to be submitted via e-mail and regular mail to Fact Finder Larney on or before September 8, 2017.

II. SUMMARY OF COLLECTIVE BARGAINING

The Union and the Employer are parties to a collective bargaining agreement that expired on June 30, 2017. Employer's Ex. 4. The parties began negotiations for a successor agreement on January 25, 2017. At that meeting, the Union stated that it would be happy with the same wage increases as the last agreement (i.e., 3%, plus COLA, 2% plus COLA, 1% plus COLA) if the District did away with its residency requirement. In early February, the Union made a request to the Montana Board of Personnel Appeals (BOPA) for training on interest-based bargaining (IBB). The parties participated in IBB training and engaged in IBB on February 21, 2017, and March 3, 2017, which was facilitated by mediator William Smith of BOPA.

During the parties' IBB negotiations, the District was willing to consider replacing its residency requirement with a response time requirement and proposed a 26 minute response time. The Union stated it wanted a 180 minute response time based on its position that the residency requirement should encompass areas where the District transports patients to hospitals. The District also presented the Union with its wage proposal of 2% plus COLA for the first year, 1% plus COLA the second year, and 1% plus COLA the third year. The parties discussed a number of other issues including staffing, health insurance, pay for volunteer EMS transport and wild land fire service, and payment of additional compensation to paid staff for signing up for voluntary call back.

On April 11, 2017, the parties met again to resume negotiations. On that date, the Union presented the District with written proposals. Employer's Ex. 5 BOPA mediator William Smith advised the Union that its written proposals were not IBB, and was traditional bargaining, which was beyond the scope of his involvement. The parties engaged in traditional bargaining and were able to reach tentative agreements on various proposals, with the exception of wages and the District's residency requirement policy.

On April 24, 2017, the District provided the Union with its last, best and final package proposal in writing, along with a redlined version of a successor agreement. Employer's Ex. 6. The District's written package proposal included a list of the items previously tentatively agreed upon by the parties in negotiations, and the items proposed but not agreed to in negotiations. The Union submitted a request for mediation to BOPA, and the parties participated in mediation on May 30, 2017, which was unsuccessful. As a result, the Union requested factfinding on June 1, 2017, and a factfinding hearing was held on July 25, 2017. Employer's Ex. 8.

III. FACTFINDING STATUTES & ADMINISTRATIVE REGULATION

The following statutes and regulation are applicable to factfinding:

Montana Code Annotated § 39-31-308 : Initiation of factfinding -- designation of fact finder. (1) If, upon expiration of an existing collective bargaining agreement or 30 days following certification or recognition of an exclusive representative, a dispute concerning the collective bargaining agreement exists between the employer and the exclusive representative, either party may petition the board to initiate factfinding.

(2) Within 3 days of receipt of such petition, the board shall submit to the parties a list of five qualified, disinterested persons from which the parties shall alternate in striking two names. The remaining person shall be designated fact finder. This process shall be completed within 5 days of receipt of the list. The parties shall notify the board of the designated fact finder.

(3) If no request for factfinding is made by either party before the expiration of the agreement or 30 days following certification or recognition of an exclusive representative, the board may initiate factfinding as provided for in subsection (2) above.

Montana Code Annotated § 39-31-309: Factfinding proceedings. (1) The fact finder shall immediately establish dates and place of hearings.

(2) The public employer and the exclusive representative are the only proper parties to factfinding proceedings.

(3) Upon request of either party or the fact finder, the board shall issue subpoenas for hearings conducted by the fact finder. The fact finder may administer oaths.

(4) Upon completion of the hearings, but no later than 20 days from the date of appointment, the fact finder shall make written findings of facts and recommendations for resolution of the dispute and shall serve the findings on the public employer and the exclusive representative. The fact finder may make this report public 5 days after it is submitted to the parties. If the dispute is not resolved 15 days after the report is submitted to the parties, the report must be made public.

(5) When a party petitions the board to initiate factfinding, the cost of factfinding proceedings must be equally borne by the parties. When the board initiates factfinding, the cost of factfinding proceedings must be equally borne by the board and the parties.

(6) Nothing in 39-31-307 through 39-31-310 prohibits the fact finder from endeavoring to mediate the dispute in which the fact finder has been selected or appointed.

Administrative Rule of Montana 24.26.697: FACT FINDER

(1) Either party to a dispute may petition the board to initiate factfinding or, if it is apparent that matters in disagreement might be more readily settled if facts involved were determined and publicly known, the board may initiate factfinding in accordance with 39-31-308, MCA.

(2) Within three days of receipt of a petition for factfinding, the board shall submit a list of five qualified, disinterested persons to each of the parties to the dispute.

(3) Within five days of receipt of the list, the parties shall select a fact finder by having the petitioner strike two names and then the other party strike two names. The remaining name is that of the fact finder.

(4) The parties shall immediately notify the board of the name of the fact finder. The board shall notify the fact finder along with a request to immediately establish dates and places of hearings.

(5) Within 20 days from the date of hearing, the fact finder shall make written findings of fact and recommendations for resolution of the dispute. The findings shall be served on both parties and a copy sent to the board.

(6) The fact finder may request the board to make the report public five days after the parties are served with the findings.

(7) Fifteen days after the parties are served the board shall provide that the report is open to public inspection.

(8) When a party petitions the board to initiate factfinding, the cost of factfinding must be equally borne by the parties. The fact finder shall, within ten working days of the written findings, send a copy of the invoice to both parties on which they will be billed for one-half of the total. The parties shall pay directly to the fact finder within five days.

(9) When the board initiates factfinding, the cost of factfinding proceedings must be equally borne by the board and the parties concerned. The fact finder shall, within ten working days of the written findings, submit an invoice of the costs and fees to the board which shall send copies of the invoice to both parties on which they will be billed for one-third of the total. The parties shall pay the board within five days and the board shall forward the total amount to the fact finder.

IV. ITEMS IN DISPUTE

The items in dispute the Fact Finder is required to make written findings of fact and recommendations for resolution are as follows:

1. Residency Requirement
2. Wages and Certification Pay

V. SUMMARY OF EMPLOYER'S POSITION

A. Residency Requirement

The Hebgen Basin Rural Fire District was formed in 2008, and was formerly known as the North Side Rural Fire District. The District was strictly a volunteer department at that time. In March 2009, the Town of West Yellowstone was annexed into the District. As a result, the District was required to hire a Fire Chief and other staff required for the proper operation of the District. Employer's Ex. 1, ¶ 8. In addition, upon the effective date of annexation, all employees and volunteers of the Town of West Yellowstone's Fire Department who desired to do so could transfer to and become employees and volunteers of the District. Employer's Ex. 1, ¶ 8 a. Upon annexation, the District was also required to assume the collective bargaining agreement between the West Yellowstone Fire Fighters Local #4432 of the IAFF and the Town, having a term of July 1, 2008, through June 30, 2011. Employer's Ex. 2, Article 28.

While annexation was pending, the employees of the Town of West Yellowstone Fire Department persuaded the Town Manager to allow them to reside outside the Hebgen Basin area despite the Town policy requiring emergency service personnel to reside in an area that would allow them to be able to meet the response time requirements of the position. Employer's Ex. 14. By the time annexation occurred, three of the six Town Fire Department employees who transferred to the District had moved out of the District. By the time negotiations for a successor collective bargaining started in the spring of 2011, none resided within the District.

From 2011 through the present, the District has required each new employee, including the Fire Chief, Assistant Fire Chief, and administrative assistant, to reside within the District as a condition of employment. Employer's Ex. 15. The District began requiring residency as a condition of employment in 2011 in order to improve call response, to ensure that employees are readily available in emergency situations, and to promote employee involvement within the community they serve. Each of these goals has been held to be constitutional. 16A McQuillin Mun. Corp. § 45.68 (3d ed.); see also 4 A.L.R. 4th 380, *Validity, construction, and application of enactments relating to requirement of residency within or near specified governmental unit as condition of continued employment for policemen or firemen* (1981).

From 2011 forward, each applicant selected for hire was presented with, and signed, a written Conditional Offer of Employment, indicating that they understood and accepted the terms of employment, the District's residency requirement, and the criteria used by the District for determining residency, which were set forth in the Offer. Employer's Ex. 15. In Mike Cameron's case, he signed two separate Conditional Offers of Employment--one in February 2015 when he was offered employment as a Vacation Relief Firefighter/EMT and one in April 2017 when he was offered employment as a full-time Firefighter/EMT--both of which contain the District's residency requirement. Employer's Ex. 15.

The District's residency requirement policy is not contained in the parties' collective bargaining agreement. The only reference to the District's residency requirement in the parties' agreement is contained in Article 7. Article 7 simply states that all personnel covered by the agreement hired prior to July 30, 2009, are exempt from any residency requirements.¹ Employer's Ex. 4.

¹ The language of Article 7 is the same in the parties' 2011-2014 and 2014-2017 agreements.

In September 2013, a Firefighter/Paramedic was terminated for violating the District's residency requirement after he failed to re-establish residency within the District after being given a reasonable period of time within which to comply. The Union did not grieve the termination.

In the spring of 2014, the Board of Trustees of the District adopted a formal residency requirement policy. Employer's Ex. 16. The Union did not grieve the District's adoption of a formal residency requirement policy.

Since implementing a residency requirement in 2011, the District's average response to calls by paid staff increased from 1.9 per incident in 2011 to 3.63 per incident in 2017. Since employees have been required to live within the District, the response to calls by paid staff who are not on duty has increased, which has helped increase public safety.

In 2011, the District had 21 volunteers; 5 of which were EMTs. Presently, the District only has 11 volunteers and of those 11 volunteers, only 3 consistently respond in an emergency. In addition, only one of the District's volunteers is trained as an emergency responder, which is below the level of an EMT. As acknowledged by James McBirnie at the hearing, the District does not have trained volunteers to respond in an emergency if qualified paid staff are unavailable to respond.

The District encompasses approximately 120 square miles, and employs 3 full-time Firefighter/EMTs and 3 full-time Firefighter/Paramedics who work a 48/96 schedule (two 24 hour shifts, followed by 4 (96 hours) days off). The District has four fire stations located throughout the District, but only staffs Fire Station 1 located at 10 S. Faithful Street, West Yellowstone. Staffing consists of one full-time Firefighter/EMT and one full-time Firefighter/Paramedic per shift. Currently, the District also has a full-time Vacation Relief Firefighter/EMT who works varying shifts. When the Vacation Relief Firefighter/EMT is not covering another employee's shift, the Vacation Relief position

primarily works dayshift from 0900 to 2100, with varying days off.² This results in a total of three employees on shift during the day, and two employees on shift at night.

In addition, the District employs a Fire Chief and Assistant Chief, who respond to calls, but are not members of the bargaining unit. The Fire Chief generally works from 7:00 a.m. to 6:00 p.m., Monday through Friday, and the Assistant Chief works four 10 hour shifts, Monday through Thursday. The Chief and Assistant Chief are also expected to respond to calls 24/7, 365 days per year.

The total number of calls responded to by the District increased by nearly 100 calls from 2012 to 2016. Employer's Ex. 3 (Slide 12 titled Hbfd Call for Service Breakdown 2012-2016).³ The majority of calls responded to by the District are EMS calls--415 of the 489 total calls responded to by the District in 2016 were EMS calls. Of the 415 EMS calls responded to, 231 of those calls required transport of a patient. This means that the two person duty crew is out of the District during the time it takes to transport the patient. Eighty-nine percent (89%) of the transports involve the crew being out of the District for 4-5 hours. Employer's Ex. 3 (Slide 19 titled Transport Time Crews Are Out of Service). This leaves the Chief and Assistant Chief to respond to calls while the duty crew is on a transport.

The District's highest call volume is during the hours of noon and 6:00 p.m. Employer's Ex. 3 (Slides 7 and 8 titled Call Volume Time of Day). Even if the District had trained volunteers to respond, the highest call volume occurs during the normal work day when volunteers are at work.

In 2016 there were 38 times when the District had two incidents going on at the same time, 7 times when there were three incidents going on at the same time, and 36 times when it responded to motor vehicle accidents where multiple apparatus was on scene.

² This was the reason that Mike Cameron was involved in responding to a large percentage of the District's calls when he held the Vacation Relief Firefighter/EMT position, as the majority of the District's calls occur between those hours. Employer's Ex. 3.

³ Color version of Employer's Ex. 3 is attached to email with Employer's Post-Hearing Brief.

Employer's Ex. 3 (Slides 15 and 16 titled 2nd, 3rd, Call or Multiple Apparatus & Multiple Calls or Apparatus Out). As a result, 17% of the District's calls in 2016 involved multiple incidents and apparatus.

The Union's modified proposal to change the residency requirement to a 150 minute (2½ hour) response time will not enable the District to meet its emergency response obligations. In response to Fact Finder Larney's question, "How does the Union's 150 minute response time meet the District's emergency response time requirements?," James McBirnie's response was mutual aid from other agencies and the paid staff on duty. Mr. McBirnie's response does not address the times when the paid staff on duty are out of the District on a transport. Although the District does have mutual aid agreements with other agencies, the closest agency that may be able to provide assistance year-round is in Big Sky, which is an hour away from West Yellowstone. Island Park, Idaho, is closer, but it is strictly a volunteer department. In addition, Mike Cameron acknowledged that there are times in the winter when the weather is bad enough that highways to West Yellowstone are closed, which may prevent mutual aid agencies from traveling to West Yellowstone.

The District's Interlocal Agreement with the Town of West Yellowstone requires it to provide the same level of emergency response service the Town had when it had its own fire department. Employer's Ex. 1, ¶ 6. The majority of the District's calls are EMS calls within the Town of West Yellowstone, which require immediate response. Employer's Ex. 3 (Slides 10 and 11 titled Location of Calls). If members of the bargaining unit do not reside within the District, the District will not have trained personnel available to meet its emergency response requirements.

In addition, the Union's proposal for a 150 minute (2½ hour) response time will not solve the Union's objective of opening up affordable housing to its members. This is demonstrated by the housing price information contained on the flash drive provided by the Union at the hearing as well as the cost of living and housing prices in the cities

encompassed within the Union's proposed 2½ hour response time. In reviewing the 150 Minute Proposed Residency folder within the Homes for Sale folder on the flash drive provided by the Union, most of the listings are over \$200,000 and many of them are condos or townhouses. The only listings in the \$150,000 range were in Idaho Falls, Idaho, which is two hours away from West Yellowstone.

Based on Sperling's Best Places website,⁴ West Yellowstone is 10.8% higher than the United States average. Employer's Ex. 13. The median home price is \$241,875, which is based on the year's most recent home sales data updated through December 2016.⁵ Employer's Ex. 13. At the hearing, the Union made a reference to a median home price of \$332,000 in West Yellowstone on the Realtor.com website. However, in reviewing the Realtor.com website, this figure is actually the median listing price of homes in West Yellowstone, not the median sales price of homes in West Yellowstone.

There are a number of homes listed for sale in West Yellowstone under \$250,000, which is comparable to the list prices of homes within the 150 minute response time radius presented by the Union. However, bargaining unit members living within the District would not have the added expense of commuting to work.

During the year, each bargaining unit member living outside the District would be required to commute to work approximately 60 times based on a 48/96 work schedule. A bargaining unit member living in Ennis, Montana, which is 80 miles away from West Yellowstone incurs additional mileage expense of \$5,136.00 (160 miles roundtrip x 60 trips x .535 current IRS mileage rate). If you divide this amount by 12 months, the bargaining unit member would save \$428 per month by living in the District that could be used toward housing. A bargaining unit member living in Clarkston, Montana, which is approximately 120 miles away from West Yellowstone incurs additional mileage expense of \$7,704.00; divided by 12 is an additional \$642 per month that could be used for housing.

⁴ www.bestplaces.net

⁵ See printout from Sperling's Best Places with explanation of median home price data, attached as Exhibit A.

Bozeman, which is approximately 90 miles away from West Yellowstone, has a cost of living 19.7% higher than the United States average with a median home price of \$293,600. Belgrade, which is also approximately 90 miles away from West Yellowstone, has a cost of living 9.8% higher than the United States average with a median home price of \$235,690. Livingston, which is approximately 110 miles away from West Yellowstone, has a cost of living 5.3% higher than the United States average with a median home price of \$198,035. Big Sky, which is approximately 50 miles away from West Yellowstone, has a cost of living 29.9% higher than the United States average with a median home price of \$352,375. Big Timber, which is approximately 143 miles away from West Yellowstone, has a cost of living 2.4% higher than the United States average with a median home price of \$181,250. Whitehall and Butte are beyond the 150 minute response time proposed by the Union.

When asked at the hearing whether the Union had ever made a proposal for a housing stipend to help with housing costs, Mike Cameron testified that it had not and stated that a housing stipend would not help provide additional opportunities or activities for their members' spouses or children. Mike Cameron also acknowledged that the turnover of employees was not solely due to the District's residency requirement.

Due to the isolated area where the District is located, it is necessary for the District to maintain its residency requirement for employees or, in the alternative, implement a reasonable response time of 26 minutes, in order to meet its emergency response obligations. As explained above, the Union's proposal for a 150 minute response time will not meet the District's emergency response obligations and will not solve the affordable housing issue as many of the areas encompassed within the Union's proposed 150 minute response time have houses for sale at prices similar to or higher than West Yellowstone. Accordingly, the District urges the Fact Finder to find that the residency requirement is necessary for the District to meet its emergency response requirements and recommend that

it remain in place or, in the alternative, that a 26 minute response time be put in place instead of the residency requirement.

B. Wages/Certification Pay

As part of its package proposal, the District offered the following base wage increases: 2% plus COLA for year 1, 1% plus COLA for year 2, and 1% plus COLA for year 3. Pursuant to Addendum A of the parties' collective bargaining agreement, COLA shall be defined as the annual COLA calculation established by the Montana Association of Counties (MACO). Pursuant to MACO's COLA calculation, COLA for the first year of the agreement is 1.3%.⁶ As a result, the wage increase offered by the District for year 1 of the contract is 3.3%. In addition, the District offered certification pay, which would enable bargaining unit members to earn up to an additional \$1,200 per year. Employer's Ex. 7.

The District's wage proposal was based on an analysis of wages at comparable fire departments in Montana. Employer's Ex. 12. The two rows highlighted in yellow on Employer's Exhibit 12 are the gross wages for EMTs and Paramedics for Fiscal Year 2016-2017 of the departments listed. The spreadsheet includes first class and second class cities in Montana.

Pursuant to Montana Code Annotated § 7-1-4111, every city having a population of over 10,000 is a first class city, every city having a population of less than 10,000 and more than 5,000 is a second class city, every city having a population of less than 5,000 and more than 1,000 is a third class city, and a municipal corporation having a population of less than 1,000 and more than 300 is a town. Pursuant to Montana Code Annotated § 7-1-4112, the Town of West Yellowstone, by resolution adopted by the Town Council, has classified itself as a town.

⁶ See printout for MACO website, attached as Exhibit B.

Fire Chief Grube used Lewistown, Lockwood, Central Valley, and Columbus because they have combination departments with paid and volunteer staff similar to the District, and came up with an average wage of \$44,793.48 for an EMT. He excluded Red Lodge and Livingston because those departments do not have any paid EMTs on staff. Chief Grube did the same for Paramedics, using Livingston, Red Lodge, Lockwood, Central Valley, and Columbus, to come up with an average wage of \$45,544.50. He excluded Lewistown because it does not have any Paramedics. The average wages for EMTs and Paramedics calculated by Chief Grube are in the second column of Employer's Exhibit 12.

Chief Grube did not include Missoula Rural, Missoula City, Bozeman, and Butte-Silver Bow in his analysis because they are first class cities and are not comparable to the District. Chief Grube also excluded Big Sky and Whitefish from his analysis due to the high cost of living in those cities as well as the fact that there is now a hospital in Big Sky.⁷ Moreover, Big Sky Fire Department's annual budget is significantly higher than the District's budget. See page from Gallatin County Fiscal Year 2016-2017 Budget attached as Exhibit C.

Chief Grube then multiplied the average wage amounts he calculated for EMTs and Paramedics by the cost of living in each of those cities and towns to determine what an EMT or Paramedic should be making in those cities and towns based on the average wage. These amounts are set forth in rows 37 and 38 of Employer's Exhibit 12 under the heading, 2nd Class Cities. Based on his calculation, a Paramedic employed by the District should be making \$49,852.81 and an EMT should be making \$44,588.07.

The testimony provided by James McBirnie and Mike Cameron at the hearing regarding their annual wages for 2016 was their net pay, which did not take into account the portion of their salary contributed to pension. EMTs and Paramedics employed by the

⁷ <https://www.bigskymedicalcenter.org/>

District's gross earnings are currently in excess of the average wages of the second class cities analyzed by Chief Grube even after being adjusted based on the cost of living. Currently, an EMT employed by the District's gross earnings are \$52,163.00 and a Paramedic's gross earnings are \$58,062. The District's starting base wage rate for an EMT as of July 1, 2016, is \$17.03 per hour. Based on the 48/96 schedule, a newly hired, full-time EMT works 2,766 regular hours and 152 overtime hours, which equates to gross wages of: $2,766 \times \$17.03/\text{hr} = \$47,104.98$ and $152 \times \$25.55 = \$3,883.60$, for a total of \$50,988.58.

In addition, the gross wages of EMTs employed by the District are higher than the wages currently being paid in the cities/towns used by Chief Grube for his comparison, with the exception of Central Valley.⁸ Paramedics employed by the District also earn more than Paramedics in the cities/towns used by Chief Grube in his comparison. If no residency requirement or reasonable response time requirement is in place, the District will not be able to meet its emergency response obligations and does not have the additional funding to hire more employees to respond to calls. As the Fact Finder pointed out at the conclusion of the hearing, there is an interrelationship between residency and pay.

The Union proposed base wage rate increases of 5% plus COLA for each year of the three year contract. In support of their proposal, the Union presented wages from departments in the exclusive resort communities of Big Sky and Whitefish, Montana, and Ketchum and Wood River, Idaho. None of these resort communities are comparable to the District. According to Sperling's Best Places website: 1) the median home price in Big Sky is \$352,375 and the cost of living is 29.9% higher than the United States average; 2) the median home price in Whitefish is \$310,000 and the cost of living is 22.2% higher

⁸ Central Valley's annual budget is over three times higher than the District's. See pages from 2016-2017 final budget for Gallatin County from the following website: http://gallatincomt.virtualltownhall.net/Public_Documents/gallatincomt_Fiscal/FY2017FinalBudgetDocument.pdf, attached as Exhibit C.

than the United States average; 3) the median home price in Ketchum, Idaho, is \$491,250 and the cost of living is 55.8% higher than the United States average; and 4) the median home price in Hailey, Idaho, where Wood River Fire Department is located is \$268,736 and the cost of living is 17.5% higher than the United States average.

The Big Sky Fire Department currently staffs five full-time employees per shift, in addition to the Chief and Deputy Chief.⁹ Big Sky, Montana, is home to Big Sky Resort and the exclusive Yellowstone Club. The Yellowstone Club is a private residential, ski resort and golf resort near Big Sky.¹⁰ Membership in the Yellowstone Club costs a minimum of \$250,000 to join, plus the cost of a \$5 million to \$35 million mountainside home, plus annual dues of about \$20,000, according to members. In addition to the fire department in Big Sky, the Yellowstone Club also has its own fire department.

Whitefish, Montana, is a second class city with a population of over 7,000 and is home to Whitefish Mountain Resort. The Whitefish Fire Department has 17 full-time paid firefighters and approximately 10 volunteers--a number of whom are EMT trained. Ketchum and Hailey, Idaho, are home to Sun Valley Resort where a number of celebrities have homes. Sun Valley is adjacent to Ketchum within the greater Wood River valley.¹¹ Sun Valley has been a seasonal home for the rich and famous since first being brought to public attention by Ernest Hemingway in the late 1930s.¹² The Wood River Fire Protection District (Wood River) has a fluctuating population of approximately 16,000. Wood River is a combination fire department and currently employs 12 full-time members and 24 paid-on call first responders. Wood River also employs a full-time fire chief, assistant fire chief, office manager, three captains, four lieutenants and two senior engineers.

West Yellowstone is not a resort community. It is a tourist community located near one of the entrances to Yellowstone National Park with a number of hotels and vacation

⁹ <https://272cn01h0qlz3i3ya43z4j92-wpengine.netdna-ssl.com/wp-content/uploads/2017/08/2017-Annual-Report.pdf>

¹⁰ https://en.wikipedia.org/wiki/Yellowstone_Club; see also <http://yellowstoneclub.com/>

¹¹ https://en.wikipedia.org/wiki/Sun_Valley,_Idaho

¹² *Id.*

rentals. As a result, the Town of West Yellowstone is able to assess a resort tax, a small portion (15.7%) of which provides one source of revenue for the District. Employer's Ex. 3 (Slide 24 titled Resort Tax vs. HBFD Payments). The Town of West Yellowstone determines what portion of the resort tax is paid to the District based on the current Interlocal Agreement between the Town and the District. The other two sources of revenue for the District are real estate taxes and ambulance revenue. Employer's Ex. 3 (Slide 22 titled HBFD Budget Breakdown). The District is already collecting the maximum mill levy allowed to be assessed in real estate taxes and is only able to collect a portion of the ambulance fees billed to patients due to insurance and Medicare reimbursement rates. Employer's Ex. 3 (Slides 20 and 21 titled Hebgen Basin Revenue Sources & What Does Medicare Pay?).

The District based its base wage proposal on its current budget and the analysis of wages at other comparable departments. Employer's Ex. 12. In addition, for the six year period from 2011 to 2016, District employees' base wage increases totaled 19.1%, along with an additional longevity pay increase of .9%, for a total increase in compensation during that period of time of 20%. Employer's Ex. 10. During that same period of time, the cost of living increase based on the Consumer Price Index utilized by MACO, which is the agreed upon cost of living indicator used by the parties, was only 9.8%. See printout from MACO website attached as Exhibit B.

The annual compensation of Police Officers employed by the Town of West Yellowstone currently ranges from \$37,627.20 for an entry level officer up to \$54,142.40 for an advanced officer. Employer's Ex. 11, p. 1. Employees of the District also earn more than most of the other Town of West Yellowstone public safety employees. Employer's Ex. 11, p. 2.¹³

¹³ A color copy of page 2 of Employee's Exhibit 11 is attached to the email with Employer's Post-Hearing Brief.

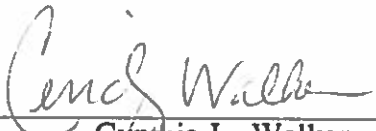
Despite the fact that EMTs and Paramedics employed by the District earn more than EMTs and Paramedics in the second class cities analyzed by Chief Grube, the District proposed increases to the base wage for EMTs and Paramedics each year of the contract and to add certification pay. In addition, the parties tentatively agreed to increases in longevity pay and additional compensation for voluntary call back shifts. Employer's Ex. 7. Accordingly, the District urges the Fact Finder to reject the Union's proposal to increase wages in excess of 19% for the three year successor agreement and to find that the District's proposal to increase wages ranging from 6.7% for new hires up to 12.6% for the most senior EMTs and Paramedics for the three year successor agreement is fair and equitable.

VI. CONCLUSION

Hebgen Basin Rural Fire District respectfully requests that the Fact Finder find and recommend that the residency requirement should remain in effect or be replaced with a 26 minute response time in order for the District to meet its emergency response obligations to the Town of West Yellowstone and the District's residents and visitors. In addition, the District respectfully requests that the Fact Finder find that its wage proposal represents a fair and equitable wage increase based on the wages of other comparable departments in Montana and recommend that the District's wage proposal be adopted by the parties.

DATED this 5th day of September, 2017.

POORE, ROTH & ROBINSON, P.C.

By 
Cynthia L. Walker
Attorneys for the Employer
1341 Harrison Avenue
Butte, Montana 59701

CERTIFICATE OF SERVICE

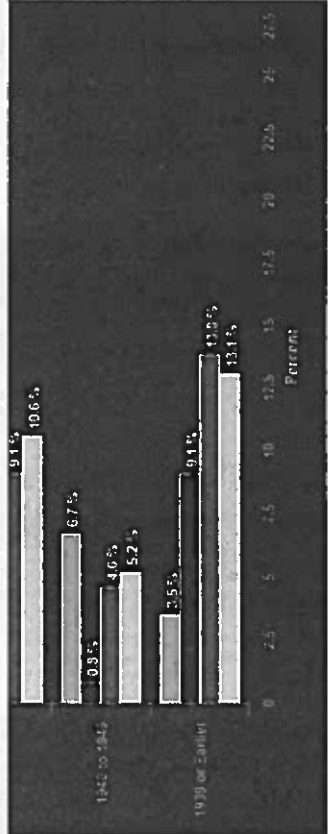
This is to certify that on the 8th day of September, 2017, the foregoing
EMPLOYER'S POST-HEARING BRIEF was duly served upon the following:

Ricky J. Walsh
Vice President, 7th District
International Association of Fire Fighters
P.O. Box 5604
West Richland, Washington 99353

POORE, ROTH & ROBINSON, P.C.

By Charmaine Trudeau
Charmaine A. Trudeau
Legal Assistant

EXHIBIT "A"



Most Large City School Spending

- District of Columbia, Washington
- Yonkers, New York
- North Hempstead, New York
- Ramapo, New York
- Newark, New Jersey

Highest Population in USA

- New York, New York
- Los Angeles, California
- Chicago, Illinois
- Houston, Texas
- Philadelphia, Pennsylvania

HOUSING

Message from webpages

This is the value of the years most recent home sales data. Its important to note that this is not the average (or arithmetic mean). The median home price is the middle value when you arrange all the sales prices of homes from lowest to highest. This is a better indicator than the average, because the median is not changed as much by a few unusually high or low values. Updated: December, 2016

OK

Median Home A		
Median Home C		
Home Appr. Las		
Home Appr. Las		
Home Appr. Las		
Property Tax Rate	27.02%	56.34%
Homes Owned	30.37%	12.45%
Housing Vacant	42.62%	31.21%
Homes Rented		
AVERAGE RENT FOR HOME OR APARTMENT		
Studio Apartment	\$531	\$712
1 Bedroom Home or Apartment	\$639	\$825
2 Bedroom Home or Apartment	\$788	\$1,027
3 Bedroom Home or Apartment	\$1,148	\$1,378

EXHIBIT “B”

Consumer Price Index - All Urban Consumers

Series Id: CUUR0000SA0

Not Seasonally Adjusted

NOTE: This index includes food and energy

Area: U.S. city average

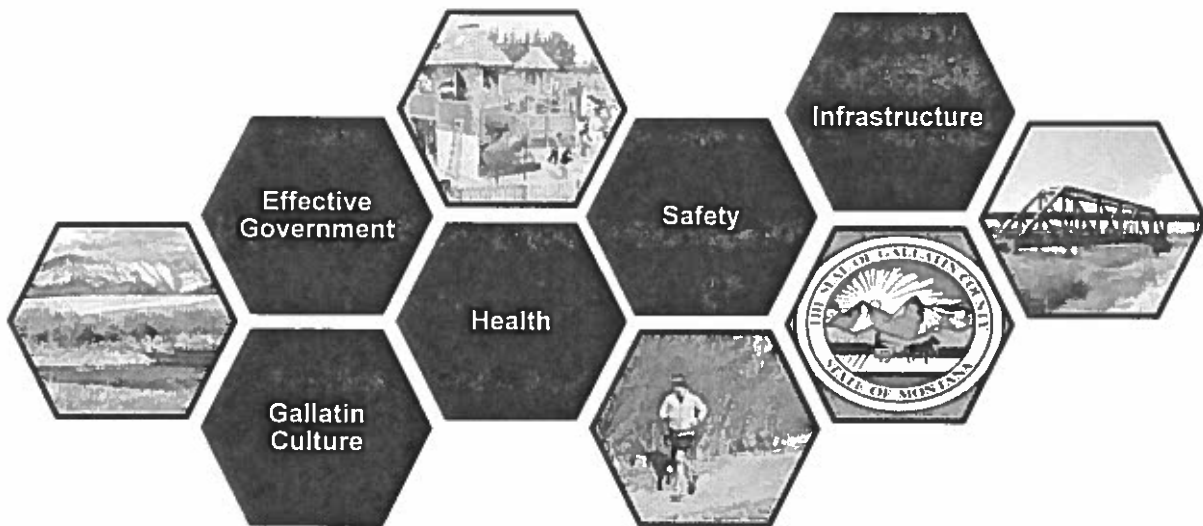
Item: All items

Base Period: 1982-84=100

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	Annual Increase
1975	52.100	52.500	52.700	52.900	53.200	53.600	54.200	54.300	54.600	54.900	55.300	55.500	53.800	
1976	55.600	55.800	55.900	56.100	56.500	56.800	57.100	57.400	57.600	57.900	58.000	58.200	56.900	5.8%
1977	58.500	59.100	59.500	60.000	60.300	60.700	61.000	61.200	61.400	61.600	61.900	62.100	60.600	6.5%
1978	62.500	62.900	63.400	63.900	64.500	65.200	65.700	66.000	66.500	67.100	67.400	67.700	65.200	7.6%
1979	68.300	69.100	69.800	70.600	71.500	72.300	73.100	73.800	74.600	75.200	75.900	76.700	72.600	11.3%
1980	77.800	78.900	80.100	81.000	81.800	82.700	82.700	83.300	84.000	84.800	85.500	86.300	82.400	13.5%
1981	87.000	87.900	88.500	89.100	89.800	90.600	91.600	92.300	93.200	93.400	93.700	94.000	90.900	10.3%
1982	94.300	94.600	94.500	94.900	95.800	97.000	97.500	97.700	97.900	98.200	98.000	97.600	96.500	6.2%
1983	97.800	97.900	97.900	98.600	99.200	99.500	99.900	100.200	100.700	101.000	101.200	101.300	99.600	3.2%
1984	101.900	102.400	102.600	103.100	103.400	103.700	104.100	104.500	105.000	105.300	105.300	105.300	103.900	4.3%
1985	105.500	106.000	106.400	106.900	107.300	107.600	107.800	108.000	108.300	108.700	109.000	109.300	107.600	3.6%
1986	109.600	109.300	108.800	108.600	108.900	109.500	109.500	109.700	110.200	110.300	110.400	110.500	109.600	1.9%
1987	111.200	111.600	112.100	112.700	113.100	113.500	113.800	114.400	115.000	115.300	115.400	115.400	113.600	3.6%
1988	115.700	116.000	116.500	117.100	117.500	118.000	118.500	119.000	119.800	120.200	120.300	120.500	118.300	4.1%
1989	121.100	121.600	122.300	123.100	123.800	124.100	124.400	124.600	125.000	125.600	125.900	126.100	124.000	4.8%
1990	127.400	128.000	128.700	128.900	129.200	129.900	130.400	131.600	132.700	133.500	133.800	133.800	130.700	5.4%
1991	134.600	134.800	135.000	135.200	135.600	136.000	136.200	136.600	137.200	137.400	137.800	137.900	136.200	4.2%
1992	138.100	138.600	139.300	139.500	139.700	140.200	140.500	140.900	141.300	141.800	142.000	141.900	140.300	3.0%
1993	142.600	143.100	143.600	144.000	144.200	144.400	144.400	144.800	145.100	145.700	145.800	145.800	144.500	3.0%
1994	146.200	146.700	147.200	147.400	147.500	148.000	148.400	149.000	149.400	149.500	149.700	149.700	148.200	2.6%
1995	150.300	150.900	151.400	151.900	152.200	152.500	152.500	152.900	153.200	153.700	153.600	153.500	152.400	2.8%
1996	154.400	154.900	155.700	156.300	156.600	156.700	157.000	157.300	157.800	158.300	158.600	158.600	156.900	3.0%
1997	159.100	159.600	160.000	160.200	160.100	160.300	160.500	160.800	161.200	161.600	161.500	161.300	160.500	2.3%
1998	161.600	161.900	162.200	162.500	162.800	163.000	163.200	163.400	163.600	164.000	164.000	163.900	163.000	1.6%
1999	164.300	164.500	165.000	166.200	166.200	166.200	166.700	167.100	167.900	168.200	168.300	168.300	166.600	2.2%
2000	168.800	169.800	171.200	171.300	171.500	172.400	172.800	172.800	173.700	174.000	174.100	174.000	172.200	3.4%
2001	175.100	175.800	176.200	176.900	177.700	178.000	177.500	177.500	178.300	177.700	177.400	176.700	177.100	2.8%
2002	177.100	177.800	178.800	179.800	179.800	179.900	180.100	180.700	181.000	181.300	181.300	180.900	179.900	1.8%
2003	181.700	183.100	184.200	183.800	183.500	183.700	183.900	184.600	185.200	185.000	184.500	184.300	184.000	2.3%
2004	185.200	186.200	187.400	188.000	189.100	189.700	189.400	189.500	189.900	190.900	191.000	190.300	188.900	2.7%
2005	190.700	191.800	193.300	194.600	194.400	194.500	195.400	196.400	198.800	199.200	197.600	196.800	195.300	3.4%
2006	198.300	198.700	199.800	201.500	202.500	202.900	203.500	203.900	202.900	201.800	201.500	201.800	201.600	3.2%
2007	202.416	203.499	205.352	206.686	207.949	208.352	208.299	207.917	208.490	208.936	210.177	210.036	207.342	2.8%
2008	211.080	211.693	213.528	214.823	216.632	218.815	219.964	219.086	218.783	216.573	212.425	210.228	215.303	3.8%
2009	211.143	212.193	212.709	213.240	213.856	215.693	215.351	215.834	215.969	216.177	216.330	215.949	214.537	-0.4%
2010	216.687	216.741	217.631	218.009	218.178	217.965	218.011	218.312	218.439	218.711	218.803	219.179	218.056	1.8%
2011	220.223	221.309	223.467	224.906	225.964	225.722	225.922	226.545	226.889	226.421	226.230	225.672	224.939	3.2%
2012	226.665	227.663	229.392	230.085	229.815	229.478	229.104	230.379	231.407	231.317	230.221	229.601	229.594	2.1%
2013	230.280	232.166	232.773	232.531	232.945	233.504	233.596	233.877	234.149	233.546	233.069	233.049	232.957	1.5%
2014	233.916	234.781	236.293	237.072	237.900	238.343	238.250	237.852	238.031	237.433	236.151	234.812	236.736	1.6%
2015	233.707	234.722	236.119	236.599	237.805	238.638	238.654	238.316	237.945	237.838	237.336	236.525	237.017	0.1%
2016	236.916	237.111	238.132	239.261	240.229	241.018	240.628	240.849	241.428	241.729	241.353	241.432	240.007	1.3%

EXHIBIT “C”

Gallatin County, Montana



FINAL OPERATING BUDGET

AND

CAPITAL EQUIPMENT AND PROJECT BUDGET

FOR FISCAL YEAR 2016 - 2017

PUBLIC SAFETY

Fire Districts and Fire Service Areas

Department Overview

Fire Districts and Fire Service Areas are established when County residents have requested the County Commission create a district or service area to support the area's fire suppression needs. The difference between a district and a service area is the method used to generate revenue. A district's revenue comes from the imposition of a mill levy on all the property in the district. A fire service area generates revenue by charging a fee on each property having a qualifying structure located on it.

Fire districts / fire service areas are administered by elected or appointed boards of trustees. Trustees have the authority to provide adequate and standard firefighting and emergency response apparatus, equipment, personnel, housing and facilities for the protection of the district. Trustees prepare annual budgets and request special levies/fees, based on state budget laws the trustees and County must follow.

Department Goals

- Dedicated to providing prompt, efficient and progressive emergency services to the citizens of each district and service area.
- Strive to be creative and innovative with resources.
- Provide adequate firefighting and emergency response apparatus and equipment.
- Retain qualified personnel.
- Continue to provide adequate housing and facilities for the protection of the equipment and staff of the districts and fire service areas.
- Strive to meet the challenges of today and anticipate the needs of tomorrow.

Recent Accomplishments

- Coordinated efficient use of resources throughout the County through mutual aid and automatic aid agreements.
- Planned and implemented improvements and additions to fire facilities.
- Consolidated Sourdough Fire District and Rae Fire Services Area into the new Hebgen Basin Rural Fire District.

Fund Balance Sheet – Millage Requirements FY 2017

County of Gallatin, Montana												
Fund Balance Sheet - Millage Requirements												
FY 2017 FINAL OPERATING AND CAPITAL BUDGET												
Fund No.	Description	Approved Budget	Cash Reserved	Res %	Total	Cash	Non-Tax Revenue	Taxes	Mill Value	FY 2017 Mills	MAX MILLS	FY 2016 Mills
Fire Districts & Fire Service Area Funds - Trust & Agency Funds												
7200	Central Valley Fire	7,090,400	1,518,721	21.42%	8,609,121	5,208,703	833,689	2,568,729	44,785	57.38	57.38	60.12
7204	Fort Ellis Fire Service Area	560,280	12,037	2.15%	572,317	3,598	381,200	187,519	1,267	\$ 148.00		\$ 148.00
7208	Manhattan Fire	687,611	216,400	31.47%	904,011	752,086	19,300	132,625	1,885	71.13	85.43	59.37
7207	Sedan Fire	12,933	-	0.00%	12,933	9,284	-	3,649	358	10.18	10.18	11.88
7208	Three Forks Fire	242,045	70,000	28.92%	312,045	228,442	25,213	60,390	3,237	18.65	18.65	19.29
7209	Willow Creek Fire	139,394	15,540	11.15%	154,934	99,283	22,489	33,162	947	35.00	59.50	35.00
7210	Story Mill Fire	28,475	-	0.00%	28,475	-	-	28,475	488	54.30	54.30	68.90
7213	Big Sky Fire	3,753,323	629,484	16.77%	4,382,807	1,517,914	2,053,714	811,179	17,353	46.75	46.75	47.28
7214	Hebgen Basin Fire	1,827,550	157,990	8.64%	1,985,540	521,613	797,050	669,877	11,698	57.16	57.16	55.32
7215	Calatin Gateway Fire	1,057,760	44,314	4.19%	1,102,074	594,057	30,500	477,517	10,578	45.15	45.15	45.22
7216	Bridge Fire	429,161	140,722	32.87%	569,883	342,406	16,029	210,448	4,197	50.14	50.14	58.24
7217	Amsterdam Fire	650,380	208,060	31.99%	858,440	591,840	22,100	244,500	4,433	55.15	57.77	61.51
7218	Clarkston Fire Service Area	58,173	4,835	8.31%	63,008	3,704	-	57,304	314	\$ 182.50		\$ 182.50
7219	Gallatin River Ranch Fire	119,497	-	0.00%	119,497	(12,264)	29,000	102,762	707	145.39	145.39	143.50
7220	Hyalite Rural Fire	1,142,500	-	0.00%	1,142,500	-	27,500	1,115,000	18,670	59.72	59.72	-
subtotal Fire Activity		17,794,483	3,018,103		20,812,585	9,856,686	4,257,784	6,698,136				