

If you paid monthly water, wastewater, or solid waste disposal charges to the City of Billings between February 2, 2015, and June 30, 2018, you could get a payment from a class action settlement.

*A court authorized this Notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights may be affected by a class action settlement.*

Several water, wastewater, and solid waste disposal customers of the City of Billings (“City”) filed a lawsuit against the City challenging the legality of franchise fees added by the City on all monthly charges for water, wastewater, and solid waste disposal services and seek a refund of those franchise fees on behalf of the customers who paid them. The Parties have reached a preliminary settlement of the case.

Your rights and each option you may follow, and related deadlines, are explained in this Notice.

YOUR LEGAL RIGHTS AND OPTIONS	
CLASS MEMBERS DEFINED	Class Members are those customers who paid franchise fees to the City of Billings in connection with their water, wastewater, and/or solid waste accounts between February 2, 2015 and June 30, 2018, with the exception of certain commercial entities who paid franchise fees pursuant to written contracts.
CURRENT CUSTOMER CLASS MEMBERS - DO NOTHING AND YOU WILL AUTOMATICALLY RECEIVE REBATES	If the Court grants final approval of the Settlement, Rebates will be deducted from future utility bills for Class Members who are current utility customers, with the exception of certain excluded customers who paid franchise fees pursuant to written contracts. If you have been notified that you are a Current Customer Class Member and you want to participate in the Settlement by receiving these payments, then you do not need to take any further action. You will be bound by the terms of the Settlement and releases described in this Notice.
EXCLUDED CURRENT CUSTOMERS CLASS MEMBERS – YOU MUST FILE A CLAIM FORM TO RECEIVE REBATES Deadline: August 31, 2023	If you are a current water, wastewater, and/or solid waste disposal customer and you were a water, wastewater, and/or solid waste disposal customer sometime during the Claim Period of February 2, 2015 and June 30, 2018, and you received a postcard from the City of Billings Class Administrator identifying you as an Excluded Current Customer Class Member , then you must file a claim in order to receive a portion of the Settlement Fund.
ELIGIBLE FORMER CUSTOMERS CLASS MEMBERS – YOU MUST FILE A CLAIM FORM TO RECEIVE REBATES Deadline: August 31, 2023	If you were a water, wastewater, and/or solid waste disposal customer sometime during the Claim Period of February 2, 2015 and June 30, 2018, and you received a postcard from the City of Billings Class Administrator identifying you as a Eligible Former Customer Class Member , then you must file a claim in order to receive a portion of the Settlement Fund.

ASK TO BE EXCLUDED Deadline: August 31, 2023	You can exclude yourself from the Settlement if you do not wish to participate in the Settlement. This is the only option that allows you to pursue your own lawsuit against the City about the legal claims in this case. If you exclude yourself, you will not receive any rebate. If you want to exclude yourself, you must complete and return the Opt-Out Form.
OBJECT TO THE SETTLEMENT Deadline: August 31, 2023	If you think the Settlement or Class Counsel’s request for Attorney Fees is not fair, you can submit a written objection (“Notice of Objection”) to the Class Administrator, and it will be considered by the Court. If the Settlement is approved, you will receive payment and will be bound by the terms of the Settlement and releases described in this Notice.

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BASIC INFORMATION

1. Why did I get this notice?

The Court has given preliminary approval to a settlement of the lawsuit, *Houser v. City of Billings*, Cause No. DV-18-0778, which is pending in the Montana Thirteenth Judicial District Court for Yellowstone County. The Settlement is on behalf of customers who paid franchise fees to the City of Billings for water, wastewater service, and solid waste disposal service during the period from February 2, 2015, to June 30, 2018 (the “Claim Period”).

The City’s records show that you are a current customer of the Public Utilities Department or may have been a customer during the Claim Period and thus you may be a member of one of the Classes (“Class Member”). This notice explains the lawsuit, the settlement, your legal rights, the benefits available for you, and how you can obtain them.

2. What is this lawsuit about?

Plaintiff Terry Houser and three other City residents, Terry Odegard, Thomas Zurbuchen, and Roger Webb, sued the City of Billings on behalf of themselves and other customers who paid franchise fees to the City of Billings for water, wastewater service, and solid waste disposal service during the Settlement Period. They have asserted various claims against the City, including the claim that charging the franchise fees violated the customers’ due process rights. The City denies the allegations. To avoid the costs of litigation, however, and in light of the risks and uncertainties of continued litigation, the Parties have agreed to settle this lawsuit.

3. What is a class action and who is involved?

In a class action lawsuit, one or more people called “Class Representatives” sue on behalf of other people who have similar claims. The people they represent are a “Class” or “Class Members.” The Class Representatives and all the Class Members are called the Plaintiffs. The City is called the Defendant. One court resolves the issues for everyone in the Classes—except for those people who choose to exclude themselves from the Classes.

The Court has appointed Simpluris as the City of Billings Class Administrator. If you have questions, you may contact the Class Administrator at PO Box 25199, Santa Ana, CA 92799 or by calling (833) 513-0862. Please do not contact the Court.

4. Why is there a Settlement?

The Court has not decided whether or not the City violated the due process rights of their customers. There has not been a trial. Instead, both sides agreed to a settlement of the lawsuit (“Settlement”) following a mediation and with the assistance of an independent class action attorney appointed by the Court. By agreeing to settle this lawsuit, the parties are able to avoid the cost and further delay of continued litigation and a trial, and the Class Members will receive reasonable compensation. Plaintiffs and Class Counsel believe the Settlement is in the best interests of the Class and is fair, reasonable, and adequate.

5. Who are the Parties in this lawsuit?

The Plaintiffs are customers who paid for water, wastewater service, and solid waste disposal service from the City and also paid franchise fees during the Claim Period. The City is the Defendant in this lawsuit.

6. Am I part of one of the Classes?

The Court has defined three separate Classes of City utility customers who have paid franchise fees: the Water Class, the Wastewater Class, and the Solid Waste Disposal Class. You may be a member of one, two, or all three of these Classes if you were a customer and paid franchise fees between February 2, 2015 and June 30, 2018.

7. Are any City customers not included in the Classes?

The Court has excluded from the Classes certain large commercial customers who have negotiated written contracts with the City for the provision of water, wastewater, or solid waste disposal services. If a City customer first initiated water, wastewater, or solid waste disposal services after June 30, 2018, they are not Class Members and they will not receive a settlement.

8. Do I have a lawyer representing me?

The Court decided that lawyer Matthew Monforton of Bozeman, Montana, is qualified to represent you and all Class Members. The lawyer representing a class in a class action is called “Class Counsel.” He is experienced in handling similar cases. His contact information is:

Matthew Monforton
Monforton Law Offices, P.C.
40 Spanish Peak Drive, Suite 101
Bozeman, Montana 59718
Telephone No. (406) 570-2949
Facsimile: (406) 551-6919
Email: ClassCounselMonforton@mail.com

If you have questions regarding this Settlement, you should contact Simpluris, the Class Administrator, at (833) 513-0862. If the Class Administrator is not able to answer your question, you may contact the Class Counsel at ClassCounselMonforton@mail.com or (406) 570-2949. You may also view documents relating to the Settlement (including, but not limited to, the Settlement Agreement and key documents filed in connection with the motion for preliminary approval of the Settlement, the order granting preliminary approval of the Settlement, and other documents) by visiting the following website: www.CityofBillingsFranchiseFeesSettlement.com.

9. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

THE TERMS OF THE SETTLEMENT

10. What is the settlement amount and how will the money be apportioned?

Under the proposed Settlement, which the Court has preliminarily approved, the City will pay \$3,600,000.00 (the “Settlement Amount”) to fully and finally resolve all claims in the lawsuit. Subject to final approval from the Court, the following amounts will be paid out of the Settlement Fund:

Current Class Members: If you received a postcard from the Class Administrator identifying you as a Current Customer Class Member, you do not have to do anything to participate in the settlement.

Excluded Current Customer Class Members: If you received a postcard from the Class Administrator identifying you as an Excluded Current Customer Class Member and you were a water, wastewater, and/or solid waste disposal customer between February 2, 2015 and June 30, 2018, then you must file a Claim in order to receive a settlement payment.

Eligible Former Customer Class Members: If you received a postcard from the Class Administrator identifying you as an Eligible Former Customer Class Member and you were a water, wastewater, and/or solid waste disposal customer between February 2, 2015 and June 30, 2018 and you are no longer a customer, then you must file a Claim in order to receive a settlement payment.

Attorney’s Fees and Costs: Class Counsel have spent nearly 5 years prosecuting this lawsuit on behalf of the Classes but has not yet received any payment. During this time, Class Counsel has, among other tasks: (i) reviewed tens of thousands of documents relating to Plaintiffs’ claims and allegations; (ii) taken and defended nearly a dozen depositions of City employees and the Class representatives; (iii) prepared multiple briefs and attended multiple hearings before the District Court and the Montana Supreme Court, (iv) obtained a ruling from Montana Supreme Court opinion cited above for the benefit of the Class; and (vi) engaged in multiple, lengthy mediation sessions. In consideration for these efforts, Class Counsel will ask the Court for 25% of the Settlement Fund as an award of attorneys’ fees for the services provided to the Plaintiffs in the lawsuit. The payment of the Attorneys’ Fees from out of the Settlement Fund will constitute full and complete compensation for all legal fees of the attorneys representing Plaintiffs in the Action. Class Counsel will also ask the Court for litigation expenses totaling no more than \$25,000.00.

Settlement Administration Costs: The Settlement Administration Costs refer to the fees and expenses reasonably incurred by the Class Administrator to, among other things, distribute notices to Class Members, process Requests to Opt-Out and Notices of Objection, and facilitate payments under the Settlement.

The Rebate Fund: Most of the Settlement Amount will be rebated to current customers. This amount is known as the Rebate Fund. The rebates will reduce the monthly invoices of Class Members who are current customers by the Rebate Amount, for one month. After the Effective Date, the City shall rebate the full amount of the Rebate Fund to those Class Members identified by the Class Administrator who are current water, wastewater, and solid waste disposal customers, excluding: (a) Excluded Parties; and (b) Excluded Current Customers.

The “**Excluded Parties**” are larger commercial companies or governmental units that obtained services from the City pursuant to a written contract.

“**Eligible Former Customers**” means any individual or entity that is a member of one of the Classes who no longer has a water, wastewater, or solid waste disposal account with the City and who had an account with the City during the Settlement Class Period.

The Claim Fund: A portion of the Settlement Amount will be available for Excluded Current Customers and Eligible Former Customers who file a claim for payment from the Settlement.

NOTE: Excluded Current Customers and Eligible Former Customers must file a claim to receive payment from the Settlement.

Residual Funds: Any portion of the Settlement Fund that is not paid to customers or otherwise disbursed in accordance with the Settlement Agreement and the Court’s Orders, is considered Residual Funds. As required by state law, fifty percent (50%) of any Residual Funds shall be paid to the Access to Justice Organization approved by the Court. The remaining fifty percent (50%) of the Residual Funds shall be paid to the City’s Public Works Department and shall be split as equally as possible among the following Public Works Department accounts: (a) the Water Fund; (b) the Wastewater Fund; and (c) the Solid Waste Disposal Fund.

11. How much will my Individual Settlement Payment be?

The dollar amount of individual settlements will be dependent upon how many claims are filed. The settlement funds will be divided on a pro rata basis among all Allowed Claims that are filed and all current customers who are Class Members.

HOW TO GET A REBATE AND THE CLAIMS I AM RELEASING

12. How do I get a payment?

Current Customers who have been identified as Class Members. If you received a postcard from the Class Administrator identifying you as a Class Member, you do not need to do anything – you will automatically receive your Individual Settlement.

Excluded Current Customers who have not been identified as Class Members. If you are a current water, wastewater, and/or solid waste disposal customer and you have not been identified by the Class Administrator as a Class Member, then you are an “Excluded Current Customer” and you must file a Claim Form to participate in the settlement. In order to be eligible to receive a settlement payment you must have been a water, wastewater, or solid waste disposal customer between February 2, 2015 and June 30, 2018.

Eligible Former Customers. If you were a water, wastewater, and/or solid waste disposal customer sometime during the Claim Period (February 2, 2015 and June 30, 2018) and you are not a current customer, you are an “Eligible Former Customers”, and you must file a claim form in order to receive a settlement payment.

Eligible Former Customers and Excluded Current Customers must complete the Claim Form and return it to the Class Administrator with a postmark not later than August 31, 2023. Current Customers who have been identified as Class Members do not have to file a Claim Form.

If you do not know if you are a Class Member, please contact the Class Administrator at PO Box 25199, Santa Ana, CA 92799 or by calling (833) 513-0862. Please do not contact the Court.

If final approval of the Settlement is granted, current monthly customers will receive rebates that will be shown on their monthly statements, while Eligible Former Customers and Excluded Current Customers must file a claim for reimbursement.

13. What am I giving up to get a Rebate?

Unless you exclude yourself, you remain in one or more of the Classes, which means you will not be able to sue, continue to sue, or be part of any other lawsuit against the City for the same legal issues in this lawsuit. Specifically, you will be giving up or “releasing” the claims described in the First Amended Complaint of the lawsuit, a copy of which can be found at: www.CityofBillingsFranchiseFeesSettlement.com.

If the Court approves the Settlement, each Class Member who does not exclude himself or herself from this lawsuit will be bound by the Settlement, and release the City of Billings (including all of the City’s past, present and/or future, direct and/or indirect, subsidiaries, parents, divisions, joint venturers, predecessors, successors, insurers, assigns, consultants, and subcontractors, the City’s employee benefit plans and the trustees, fiduciaries, and administrators of those plans, and any of the City’s current or former employees, officers, directors, servants, agents, investors, representatives, attorneys, executors, administrators, and assigns, and all persons acting under, by, through, or in concert with any of them, and each of them) from all claims and causes of action raised or that reasonably could have been raised in the Lawsuit (the “Released Claims”).

The definition of Released Claims shall not be limited in any way by the possibility that Plaintiff or Settlement Class Members may discover new facts or legal theories or legal arguments not alleged in the Lawsuit but which might serve as an alternative basis for pursuing the same claims, causes of action, or legal theories of relief falling within the definition of Released Claims. The Settlement shall result in a final judgment, permanently barring and enjoining all participating Class Members from prosecuting any of the Released Claims against the City and the Released Parties.

EXCLUDING YOURSELF FROM THE SETTLEMENT

14. How do I exclude myself from the Settlement?

If you want to retain the right to pursue claims related to this case against the City and/or you do NOT want a payment from this Settlement, then you must exclude yourself by submitting a written request for exclusion. Excluding yourself is also referred to as “opting-out.” If you exclude yourself, you will not receive money from this settlement.

To ask to be excluded, you must send an “Opt-Out Form Request” in the form of a letter sent by mail, stating that you want to be excluded from *Houser v. City of Billings* and *McDaniel v. City of Billings*. Be sure to include your name and address, and sign the letter. You must mail your Opt-Out Form postmarked by **August 31, 2023** to City of Billings Class Administrator, PO Box 25199, Santa Ana, CA 92799 or by calling (833) 513-0862. Please do not contact the Court.

You may ask to be excluded from the Classes by completing and mailing the “Opt-Out Form” that is available for download on the settlement website at www.CityofBillingsFranchiseFeesSettlement.com.

OBJECTING TO THE SETTLEMENT

15. How do I tell the Court that I don't like the Settlement?

If you think anything about the Settlement is unfair, you can object to the Settlement and tell the Court that you do not agree with the Settlement or some part of it. The Court will consider your views when deciding whether to grant final approval of the Settlement.

To object to the Settlement, you must mail a written Notice of Objection to the Class Administrator at the above address by **August 31, 2023**. The administrator will mail all objections to the parties' counsel and to the Court. The Court will consider all objections in deciding whether to approve the Settlement. All written objections should:

- (a) include the case name and number (*Houser v. City of Billings*, Cause No. DV-18-0778, Montana Thirteenth Judicial District Court, Yellowstone County);
- (b) If you are represented by counsel, the name and address of your attorney;
- (c) explain the reason for your objection;
- (d) include your current mailing address;
- (e) state your name and the address(es) associated with any franchise fees paid and the dates of residence at each address;
- (f) state the services for which you contracted from the City of Billings, between February 2, 2015 and June 30, 2018, for water, wastewater service, or solid waste disposal service;
- (g) identify any class action cases in which you have previously objected to a class settlement;
- (h) state whether or not you intend to appear at the final approval hearing; and
- (i) be signed by you.

Unless approved by the Court after a hearing, you cannot receive a payment in exchange for (1) forgoing or withdrawing an objection or (2) forgoing, dismissing, or abandoning an appeal from a judgment approving the proposal.

The Court will rule on the objections it receives, and if they are overruled, then you will be a Settlement Class Member and receive payment.

16. What is the difference between objecting and being excluded?

Objecting is telling the Court that you do not like something about the Settlement. You may only object if you remain a Settlement Class Member. Excluding yourself is telling the Court that you do not want to be a Settlement Class Member. If you exclude yourself, you cannot object.

THE COURT'S FINAL APPROVAL HEARING

17. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing before Judge Mike Salvagni in Room 414 at the Yellowstone County Court House located at 217 N. 27th Street, Billings, MT 59107 on November 16, 2023, at 9:00 a.m. At this hearing, the Court will determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs, and the Class Administrator's fees and Costs. The Court may reschedule the Final Approval Hearing without further notice to Settlement Class Members.

18. Do I have to come to the hearing?

You are not required to attend the Final Approval Hearing, but you or your lawyer may attend if you choose. If you are a participating Settlement Class Member and you wish to speak or have your lawyer speak for you, you may do so. Please visit the settlement website at www.CityofBillingsFranchiseFeesSettlement.com to see whether the Final Approval Hearing will be held on November 16, 2023 or has been rescheduled to a new hearing date.

GETTING MORE INFORMATION

19. Are more details available?

Yes. Do not contact the Court for legal questions or advice—**the Court and its staff are not allowed to answer your questions.** You may obtain additional information about this lawsuit in several ways:

- a) Review carefully all of the information in this Notice;
- b) Review copies of the court documents that are posted at: www.CityofBillingsFranchiseFeesSettlement.com, including Orders Certifying the Classes, the Complaints that the Plaintiffs submitted, the Defendant's Answers to the Complaints, Class Counsel's Motion for Attorneys' Fees, the Claim Form, as well as the Opt-Out Form.
- c) Review copies of other court documents filed in this case which are public records and are available for inspection during regular business hours at: Office of the Clerk, Montana Thirteenth Judicial District, 217 N. 27th Street, P.O. Box 35030, Billings MT 59107. You will need to provide the name of the lawsuit and docket number, which is as follows:

Houser v. City of Billings, Cause No. DV 18-0778

- d) If you still have questions, you may contact Simpluris, the Class Administrator at (833) 513-0862, or Class Counsel by calling (406) 570-2949.