



# City of Helena

## ADMINISTRATIVE MEETING

September 17, 2025 - 4:00 PM

City - County Building Room 326 / Zoom Online Meeting; <https://zoom.helenamt.gov/c/36053471/publicmeetings>

## AGENDA

1. **Call to Work Session, introductions**
2. **Board & Committee Update**
  - a. Board Appointment Review
3. **Communications from the Helena Citizens Council**
4. **City Manager's Report**
5. **Commission comments, questions**
6. **Department Reports**
  - a. Information on a proposed ordinance granting a franchise to Montana Internet Corporation (MIC), and allowing the construction, operation, regulation, and control of a telecommunications system within the City of Helena, Montana.
7. **Public Comment**
8. **Commission discussion and direction to the City Manager**
9. **Adjourn**

The City of Helena is committed to providing access to persons with disabilities for its meetings, in compliance with Title II of the Americans with Disabilities Act and the Montana Human Rights Act. The City will not exclude persons with disabilities from participation at its meetings or otherwise deny them the City's services, programs, or activities.

Persons with disabilities requiring accommodations to participate in the City's meetings, services, programs, or activities should contact the City's ADA Coordinator, Ellie Ray, as soon as possible to allow sufficient time to arrange for the requested accommodation, at any of the following:

Phone: (406) 447- 8490

TTY Relay Service 1-800-253-4091 or 711

Email: [citycommunitydevelopment@helenamt.gov](mailto:citycommunitydevelopment@helenamt.gov)

Mailing Address & Physical Location: 316 North Park Avenue, Room 445, Helena, MT 59623.

September 22, 2025

TO: City Commissioners  
FROM: Mayor Wilmot Collins  
SUBJECT: Board Appointments

I am recommending the following board appointments:

<b>Business Improvement District</b>	Reappointment of Seth Brandenberger to a second term on the Business Improvement District. Term expires October 31, 2029.
<b>Citizen Conservation Board</b>	Appointment of Grace Carbeck to an interim term on the Citizen Conservation Board. Interim term expires February 28, 2026.

\*Appointees can reapply for full terms following the completion of the Interim Appointment.

***City of Helena, Montana***

**September 17, 2025**

**To:** Mayor Collins and the Helena City Commission

**From:** *Assistant City Attorney Matthew Petesch*

**Subject:** Information on a proposed ordinance granting a franchise to Montana Internet Corporation (MIC), and allowing the construction, operation, regulation, and control of a telecommunications system within the City of Helena, Montana.

**Present Situation:** Montana Internet Corporation has applied to the City for a non-exclusive Franchise for a telecommunications system within the City of Helena.

**Background Information:** MIC has applied to the City for a non-exclusive Franchise for the right of entry, use, and occupation of public rights-of-way within the City, to install, construct, erect, operate, maintain, repair, relocate and remove its telecommunications facilities in, on, over, under, along and across those rights-of-way. Pursuant to § 7-3-4223 of the Montana Code Annotated, the City may enter into franchise agreements only through the passage of an ordinance. The franchise agreement with MIC is substantially similar to the City's franchise agreement with TDS.

**Proposal/Objective:** Information on a proposed ordinance granting a franchise to Montana Internet Corporation (MIC), and allowing the construction, operation, regulation, and control of a telecommunications system within the City of Helena, Montana.

**Advantage:** Helena residents will have more options for telecommunication services.

**Notable Energy Impact:** N/A

**Disadvantage:** N/A

**Notice of Public Hearing:** N/A

**Staff Recommendation/  
Recommended Motion:** N/A

## **Telecommunications Franchise**

This Telecommunications Franchise ("Franchise") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2025, by and between the City of Helena ("City") and Montana Internet Corporation ("Grantee"). The City and Grantee are individually referred to as a party and collectively as the parties to this Franchise.

**WHEREAS**, Grantee has applied to the City for a non-exclusive Franchise for the right of entry, use, and occupation of public right(s)-of-way within the City, to install, construct, erect, operate, maintain, repair, relocate and remove its telecommunications facilities in, on, over, under, along and across those right(s)-of-way; and

**WHEREAS**, the City is authorized by applicable law to grant one or more non-exclusive franchises to construct, operate and maintain telecommunications systems within the boundaries of the City; and

**WHEREAS**, the City desires to enter into this Franchise with Grantee for the construction, operation and maintenance of a telecommunications system on the terms and conditions set forth herein; and

**WHEREAS**, following proper notice, the City Commission held a public hearing on Grantee's request for a Franchise, at which time representatives of Grantee and interested citizens were able to be heard in a full public proceeding affording opportunity for comment by any and all persons desiring to be heard; and

**WHEREAS**, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the City Commission now deems it appropriate and in the best interest of the City and its inhabitants that the Franchise be granted to Grantee,

**NOW, THEREFORE, THE CITY COMMISSION OF HELENA, MONTANA, DOES ORDAIN** as follows:

### **Section 1. Definitions**

When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Words not defined herein shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

"Affiliate", when used in connection with Grantee, means any person who owns or controls, is owned or controlled by, or is under common ownership or control with Grantee.

"Customer" means a person or user of the Telecommunications System who lawfully receives services therefrom with Grantee's express permission.

"Emergency" means a condition of imminent danger to the health, safety or welfare of persons or property located within the City.

"FCC" means the Federal Communications Commission or successor governmental entity thereto.

"Franchise Area" shall mean the present physical boundaries of the City, and any additions thereto by annexation or other legal means.

"Information Service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capabilities for the management, control, or operation of a telecommunications system or the management of a telecommunications service (as provided in 47 U.S.C. Section 153(24)).

"Maintenance or Maintain" shall mean examining, testing, inspecting, repairing, maintaining and replacing Grantee's facilities or any part thereof as required and necessary for safe operation.

"Person" means any natural person or any association, firm, partnership, joint venture, corporation, limited liability company or other legally recognized entity, whether for-profit or not-for-profit, but shall not mean the City.

"Relocation" means permanent movement of Grantee's facilities required by the City, and not temporary or incidental movement of such facilities.

"Right-of-Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or easements dedicated for compatible uses. Right-of-Way shall also include other easements or rights-of-way as shall within their proper use and meaning entitle the Grantee to the use thereof for the purposes of installing, operating, and maintaining Grantee's Telecommunications System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, attachments, and other property as may be ordinarily necessary and appurtenant to the Telecommunications System.

"State" means the State of Montana.

"Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received (as provided in 47 U.S.C. Section 153(50)).

“Telecommunications Service” means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used (as provided in 47 U.S.C. Section 153(53)).

“Telecommunications System” means the facilities used to offer Telecommunications Services or Information Services to the public.

## **Section 2. Grant of Right to Use City Rights-of-Way**

A. Subject to the terms and conditions stated herein, the City grants to the Grantee general permission to enter, use, and occupy the City Rights-of-Way throughout the Franchise Area.

B. The Grantee is authorized to install, construct, erect, operate, maintain, upgrade, relocate, remove and repair facilities and equipment, and all necessary appurtenances thereto for its Telecommunications System to provide Telecommunications Services and Information Services in the Franchise Area.

C. This Franchise does not authorize the use of public or private property elsewhere within the City.

D. This Franchise is non-exclusive and does not prohibit the City from entering into other agreements, including franchises, impacting the Franchise Area.

E. This Franchise does not waive any rights that the City has or may hereafter acquire with respect to the Franchise Area or any other City roads or Rights-of-Way or any portions thereof. This Franchise shall be subject to the power of eminent domain.

F. The City reserves the right to change, regrade, relocate, abandon, or vacate any Right-of-Way within the Franchise Area.

G. The Grantee agrees that its use of the Franchise Area shall at all times be subordinate to and subject to the City and the public’s need for municipal infrastructure, travel, and access in the Franchise Area. If, at any time during the term of this Franchise, the City vacates any portion of the Franchise Area containing Grantee facilities, the City shall reserve an easement for public utilities within that vacated portion within which the Grantee may continue to operate any existing Telecommunications System of Grantee under the terms of this Franchise.

H. This Franchise shall not be interpreted to prevent the City from imposing additional lawful conditions for use of the Right-of-Way, should Grantee provide cable services, as defined under federal law.

I. This Franchise is intended to convey limited rights and interests in the Right-of-Way. It is not a warranty of title or interest in any Right-of-Way; it does not provide

Grantee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as expressly provided in the grant hereof.

J. No rights shall pass to Grantee by implication. Without limiting the foregoing, by way of example and not limitation, this Franchise shall not include or be a substitute for:

1. Any other permit or authorization required for the privilege of transacting and carrying on a business within the City that may be required by the ordinances and laws of the City;

2. Any permit, agreement, or authorization required by the City for Right-of-Way users in connection with operations on or in the Right-of-Way or public property including, by way of example and not limitation, encroachment permits; or

3. Any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by this Franchise including, without limitation, permits and agreements for placing devices on poles, in conduits or in or on other structures.

### **Section 3. Term of Franchise**

A. This Franchise, unless sooner terminated or extended, shall run for a period of ten (10) years, starting from the effective date of this Franchise.

B. Renewal Option of Term. The Grantee may renew this Franchise for an additional five (5) year period upon submission and approval of the application for such renewal by the City and subject to any modifications of the Franchise at that time. Any materials submitted by the Grantee for a previous application may be considered by the City in reviewing a current application, and the Grantee shall only submit those materials deemed necessary by the City to address changes in the Grantee's facilities or services, or to reflect mutually agreeable modifications to the Franchise.

C. Failure to Renew Franchise – Automatic Extension. If the Parties fail to formally renew this Franchise prior to the expiration of its term, the Franchise automatically continues month to month until renewed or until either party gives written notice at least one hundred eighty (180) days in advance of its intent not to renew the Franchise to the other party.

### **Section 4. Acceptance of Franchise**

A. This Franchise, and any rights granted hereunder, shall not become effective for any purpose unless and until Grantee files with the City Clerk (1) the Statement of Acceptance, attached hereto as Exhibit "A," and incorporated herein by reference, and (2) all verifications of insurance coverage and the financial guarantees specified in this Franchise.

B. Should the Grantee fail to file the Franchise acceptance with the City Clerk within thirty (30) days after the effective date of this Franchise, the City's grant of the Franchise will be voidable at the discretion of the City.

## **Section 5. Franchise Fees**

Grantee's current planned services to be offered on the Telecommunications System are Telecommunications and Information Services, such as Voice-over-Internet Protocol applications and Internet service, and current law does not subject Information Services to Franchise Fees. If in the future, as the result of subsequent action or ruling by the FCC, or Federal or State Law (which is not pre-empted by federal law), or if because of a final, non-appealable judicial decision of a court of competent jurisdiction, Information Services become subject to Franchise Fees or if Telecommunications Services become subject to Franchise Fees, then on a going-forward basis, the City will require Grantee to pay Franchise Fees in connection with such Information Services and Telecommunications Services, as applicable, and the parties shall negotiate, in good faith, the amount of any such fees. Any Franchise Fee imposed on Information Services or Telecommunications Services shall be reasonable in light of Grantee's appropriate share of the City's costs to manage the applicable rights-of-way (considered in light of other users and amounts paid by other users) and shall be no more than any franchise fee charged to any other Information Service or Telecommunications Service provider. Failure to agree on the Franchise Fee on Information Services or Telecommunications Services, after sixty (60) days notice from one party to the other, may result in the termination of this Franchise, at the election of either party.

## **Section 6. Construction and Maintenance**

A. The City may inspect the manner of Grantee's work and require remedies as may be necessary to assure compliance. All lines, cables, fibers and conduits laid or installed under this Franchise shall be so located and placed as not to obstruct or interfere with any water pipes, drains, sewers or other structures or utilities already installed, and all such facilities shall be installed subject to the reasonable approval of the Transportation Director, or his/her designee. Notwithstanding the foregoing, Grantee shall not be obligated to obtain a permit to perform emergency repairs but shall acquire one at its expense as soon as practicable thereafter.

B. To the extent consistent with any permit issued by the City, all facilities shall be located so as to cause minimum interference with the Right-of-Way and shall be constructed, installed, maintained, renovated or replaced in accordance with applicable rules, ordinances and regulations of the City, as they may be amended from time to time as consistent with construction standards generally accepted within the industry.

C. Grantee shall, at all times, employ professional care and shall install and maintain and use industry-standard methods for preventing failures and accidents that are likely to cause damage, injuries, or nuisances to the public. All structures and all lines,



equipment, and connections in, over, under, and upon the Right-of-Way, wherever situated or located, shall at all times be kept and maintained in a safe condition. Grantee shall comply with all federal, State, and municipal safety requirements, rules, regulations, laws, and practices, and employ all necessary devices as required by applicable law during the construction, operation, maintenance, upgrade, repair, or removal of its Facilities. Additionally, Grantee shall keep its facilities free of debris and anything of a dangerous or noxious nature, or which would create a hazard or undue vibration, heat, noise, or any interference with municipal services. By way of illustration and not limitation, Grantee shall also comply with the applicable provisions of the National Electrical Code, National Electrical Safety Code, FCC regulations, and Occupational Safety and Health Administration (OSHA) Standards. Upon reasonable notice to Grantee, the City reserves the right to inspect the facilities to evaluate if they are constructed and maintained in a safe condition.

D. Grantee, at its own expense shall repair and replace any disturbed paving or surface in accordance with the City's standard specifications for street construction subject to the reasonable approval of the Transportation Director or his/her designee.

E. Grantee, upon approval and issuance of permits by the City, shall have the authority to microtrench in the construction of Grantee's Telecommunications System. Issuance of permits is a prerequisite for Grantee's ability to microtrench anywhere in the City. Regular installation and maintenance shall be scheduled so as to accommodate ongoing or previously completed work in or near the Right-of-Way, such as protection of newly planted turf or other vegetation, installed asphalt, streets or sidewalks. In order to avoid such situations, Grantee shall, if practicable, provide notice of the planned work at least forty-eight (48) hours in advance and coordinate with the City to develop a mutually acceptable schedule for such work.

F. If, during the course of work, Grantee disturbs or causes damage to or alters any Right-of-Way or other public or private property, Grantee shall promptly replace, repair or restore such Right-of-Way or other public or private property, at Grantee's expense, to a condition equal to or better than the condition that existed immediately prior to such disturbance, damage or alteration within forty-eight (48) hours if reasonably practical.

G. Grantee shall provide geographic information system ("GIS") mapping layers, As-Built and strand maps or similar records kept in its usual course of business to the City within ten (10) days of a request therefor.

H. Nothing in this Franchise shall be construed to prevent the City from constructing, maintaining, repairing, or relocating its sewers, streets, water mains, sidewalks, or other public property. However, before commencing any work within a Right-of-Way that may affect Grantee's facilities, the City shall give written notice to Grantee, and all such work shall be done, insofar as practicable, in such a manner as not to obstruct, injure, or prevent the free use and operation of Grantee's facilities.

I. The Grantee shall apply for, obtain, pay for and comply with the terms of all permits required under applicable City Code provisions for any work done in the Right-of-Way. Grantee shall comply with all other applicable City, State, and federal codes, rules, regulations, and orders in undertaking such work, which shall be done in a thorough and proficient manner.

J. Grantee agrees to coordinate its activities with the City and all utilities located within the Right-of-Way within which Grantee is undertaking its activity. The City agrees to coordinate its activities with Grantee within the Right-of-Way within which Grantee has placed its Telecommunications System or is undertaking its activities.

K. The City expressly reserves the right to prescribe how and where Grantee's facilities shall be installed within the Right-of-Way.

L. Before commencing any work within the Right-of-Way, the Grantee shall comply with all of the provisions of Montana 811 to identify and protect existing utility infrastructure.

M. Upon prior written approval of the City and in accordance with City ordinances, Grantee shall have the authority to reasonably trim trees upon and overhanging streets, Rights-of-Way, and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with Grantee's facilities. Grantee shall be responsible for debris removal from such activities. If such debris is not removed within twenty-four (24) hours of completion of the trimming, the City may, at its sole discretion, remove such debris and charge Grantee for the cost thereof.

N. Grantee's contractors of any tier shall be licensed and bonded in accordance with State law and the City's ordinances, regulations, and requirements. Work by contractors (of any tier) is subject to the same restrictions, limitations, and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors (of any tier) and others performing work on its behalf as if the work were performed by Grantee and shall ensure that all such work is performed in compliance with this Franchise and applicable law.

O. Grantee shall not introduce or use any hazardous substances (chemical or waste) in the Right-of-Way, in violation of any applicable law or regulation, nor shall Grantee allow any of its agents, contractors (of any tier), or any person under its control to do the same. Grantee will be solely responsible for and will defend, indemnify and hold the City, its agents, employees, officers, and officials harmless from and against any and all claims, costs and liabilities including reasonable attorneys' fees and costs, arising out of or in connection with the cleanup or restoration of the property associated with Grantee's use, storage, or disposal of hazardous substances, whether or not intentional, and the use, storage or disposal of such substances by Grantee's agents, contractors (of any tier), or other persons acting under Grantee's control, whether or not intentional.

## **Section 7. Repair and Emergency Work**

In the event of an emergency, the Grantee may commence such repair and emergency response work as required under the circumstances, provided that the Grantee shall notify the City in writing as promptly as possible, before such repair or emergency work commences, or as soon thereafter as possible, if advance notice is not practical. The City may act, at any time, without prior written notice in the case of an emergency, but shall notify the Grantee in writing as promptly as possible under the circumstances.

## **Section 8. Damages to City and Third-Party Property**

Grantee agrees that if any of its actions under this Franchise impair or damage any Right-of-Way, property, survey monument, or property owned by a third-party, Grantee will restore, at its own cost and expense, said property to a safe condition. Such repair work shall be performed and completed to the satisfaction of the Transportation Director.

## **Section 9. Location Preference**

Any structure, equipment, appurtenance, or tangible property of a utility, other than property of the Grantee's, which was installed, constructed, completed or in place prior in time to Grantee's application for a permit to construct or repair Grantee Facilities under this Franchise shall have preference as to positioning and location with respect to the Grantee's facilities. However, to the extent that the Grantee's facilities are completed and installed prior to a utility's submittal of a permit for new or additional structures, equipment, appurtenances, or tangible property, then the Grantee's facilities shall have priority. These rules governing preference shall continue in the event of the necessity of relocating or changing the grade of any Right-of-Way. A relocating utility shall not necessitate the relocation of another utility that otherwise would not require relocation. This Section shall not apply to any City facilities or utilities that may in the future require the relocation of Grantee's facilities.

## **Section 10. Grantee Information**

A. Grantee agrees to supply, at no cost to the City, any information reasonably requested by the City to coordinate municipal functions with Grantee's activities and fulfill any municipal obligations under State law.

B. The parties understand that State law limits the ability of the City to shield from public disclosure any information given to the City. Accordingly, the City agrees to notify the Grantee of requests for public records related to the Grantee, and to give the Grantee a reasonable amount of time to obtain an injunction to prohibit the City's release of records.

C. Grantee shall defend, indemnify and hold harmless the City for any loss or liability for fines, penalties, damages and costs (including attorneys' fees and expenses) imposed on the City because of non-disclosures requested by Grantee under Montana's Public Records Act, provided the City has notified Grantee of the pending request.

## **Section 11. Insurance**

A. The Grantee shall procure and maintain for the duration of this Franchise, insurance against claims for death, or injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Grantee, its agents, representatives, or employees in the amounts and types set forth below:

1. Comprehensive General Liability insurance, written on an occurrence basis, with limits no less than \$3,000,000 for bodily injury or death to each person and \$3,000,000 for property damage resulting from any one accident.
2. Comprehensive form premises-operations, explosions and collapse, underground hazard and products completed hazard in the amount of \$3,000,000.
3. Automobile Liability insurance covering all owned, non-owned and hired vehicles with a combined single limit for death, bodily injury and property damage of \$3,000,000 per accident.
4. Workers' Compensation coverage as required by the Insurance laws of the State of Montana.
5. Employers Liability insurance in the amount of \$1,000,000.
6. Umbrella or excess liability insurance in the amount of \$5,000,000 per occurrence and in the aggregate.

B. The Grantee's insurance coverage shall be primary insurance as respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Grantee's insurance and shall not contribute with it.

C. The Grantee's insurance shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. If the insurance is canceled so as to be out of compliance with the requirements of this Franchise, Grantee shall provide a replacement policy.

D. All certificates of insurance and policies shall contain, or be endorsed so that the City, its City Commission, officers, officials, boards, employees, representatives,

engineers, consultants, volunteers and agents are to be covered as, and have the rights of, additional insureds under the policies.

E. Grantee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

F. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices.

G. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A-VII.

H. Grantee shall furnish the City with original certificates of insurance and a copy of amendatory endorsements before commencement of the work.

I. Any deductible of the policies shall not in any way limit Grantee's liability to the City.

J. Grantee shall have the right to self-insure any or all of the above-required insurance subject to prior, written approval by the City.

K. Grantee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

## **Section 12. Indemnification and Hold Harmless**

The Grantee shall defend, indemnify, and hold the City and its officers, officials, agents, employees, and volunteers harmless from any and all costs, claims, injuries, damages, losses, expenses, suits, or liabilities of any nature including attorneys' fees arising out of or in connection with the Grantee's performance or omissions under this Franchise, except to the extent such costs, claims, injuries, damages, losses, expenses, suits, liabilities or attorneys' fees are caused by the sole negligence of the City.

## **Section 13. Bonds**

During construction of any part of the Telecommunications System, Grantee shall be required to obtain construction bonds and other forms of security, in accordance with the City Code.

## **Section 14. Successors and Assigns**

A. This Franchise shall not be leased, assigned or otherwise transferred, in whole or in part, without the express written consent of the City, which consent shall not be unreasonably withheld.

B. All of the provisions, conditions and requirements herein shall be binding upon the permitted successors and assigns of the Grantee, and all rights and privileges, as well as all obligations and liabilities of the Grantee shall inure to its permitted successors and assigns as if they were specifically mentioned herein wherever the Grantee is mentioned.

C. The proposed assignee or transferee shall file with the City a written agreement to unconditionally accept all of the terms of the Franchise, effective upon such transfer or assignment of the Franchise. The City is under no obligation to undertake any investigation of the Grantee's state of compliance and failure of the City to insist on full compliance prior to transfer does not waive any right to insist on full compliance thereafter.

## **Section 15. Dispute Resolution**

In the event of a dispute between the City and Grantee arising by reason of this Franchise, the dispute shall first be referred to the operational officers or representatives designated by the City and Grantee to have oversight over the administration of this Franchise. The officers or representatives shall meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the parties shall make a good faith effort to achieve a resolution of the dispute. If the parties fail to achieve a resolution of the dispute in this manner, either party may then pursue any available judicial remedies.

## **Section 16. Enforcement and Remedies**

If the Grantee shall willfully violate, or fail to comply with any of the provisions of this Franchise for any reason, including without limitation, through negligence, or should it fail to heed or comply with any directive given to Grantee under the provisions of this Franchise, the City will provide Grantee with written notice and an opportunity to cure the breach within thirty (30) days of notification. If the breach reasonably cannot be cured within thirty (30) days, the City may specify a longer cure period, and condition the extension of time on Grantee's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty-day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or the Grantee does not comply with the specified conditions, the City may revoke the Franchise with no further notification and pursue its other legal and equitable remedies.

## **Section 17. Compliance with Laws and Regulations**

This Franchise is subject to, and Grantee shall comply with, all applicable federal, State and City laws, regulations and policies, now existing or hereafter enacted. The Grantee shall be subject to the police power of the City to adopt and enforce general ordinances necessary to protect the safety, health and welfare of the public.

## **Section 18. Damages Limitation**

Notwithstanding any other provision of this Franchise, in no event shall either party be liable to the other for any special, incidental, indirect, punitive, loss of profits, loss of revenues, consequential or other similar damages.

## **Section 19. Notices**

Written notices shall be sent postage prepaid, by certified mail, return receipt requested, to the following addresses, unless a different address shall be designated in writing and delivered to the other party.

City: City of Helena - City Manager  
316 N. Park Ave.  
Helena, Montana 59623

with a copy to: Helena City Clerk  
316 N. Park Ave.  
Helena, Montana 59623

Grantee: Montana Internet Corporation  
1424 National Avenue  
Helena, Montana 59601

with copy to Andrew J. Utick  
Post Office Box 774  
Helena, Montana 59624

## **Section 20. Miscellaneous**

A. Force Majeure. Neither party shall be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged default occurred or was caused by a pandemic, epidemic, strike, riot, war, earthquake or other catastrophic act of nature, labor disputes or failure of electric service necessary to operate the Telecommunications System or other event that is reasonably beyond a party's ability to anticipate or control.

B. Entire Agreement. This Franchise represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof.

C. Severability. If any section, subsection, sentence, clause or phrase of this Franchise is for any reason declared invalid, in whole or in part, by any court, agency, legislative body, or other authority of competent jurisdiction, such declaration shall not affect the validity of the remaining portions hereof, all of which shall remain in full force and effect.

D. Modification. No provision of this Franchise shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the City and Grantee.

E. No Third-Party Beneficiaries. Nothing in this Franchise is intended to confer third-party beneficiary status on any member of the public or person to enforce the terms of this Franchise.

F. No Waiver of Rights. Nothing in this Franchise shall be construed as a waiver of any rights, substantive or procedural, the City or Grantee may have under federal or State law. Without limitation, the City specifically reserves all of its governmental immunities under federal, State and local law.

G. Governing Laws. This Franchise shall be governed, construed and enforced in accordance with the laws of the State of Montana and any other applicable local and federal laws, rules, regulations, legislation or orders (as such now exist, are later amended or subsequently adopted).

H. Conflicts. In the event of a conflict between this Franchise and the City Code, this Franchise shall govern.

I. Venue. Venue for any judicial dispute shall be in the State District Court in Lewis and Clark County or the U.S. District Court for the District of Montana in Helena.

J. Attorneys' Fees. In the event any suit or other proceeding is instituted to enforce or interpret any provision of this Franchise, the prevailing party in any such action or suit shall be entitled to its attorneys' fees and costs, which shall be fixed by the judge hearing the case, and such fees and costs shall be included in the judgment.

K. Headings. The section and subsection titles used herein are for reference purposes only and shall not be used to interpret this Franchise.

## **Section 21. Effective Date.**

This Franchise shall take immediate effect and be in force after reading and final adoption.



**PASSED** by the City Commission of the City of Helena, Montana this \_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
City Manager

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

Published: \_\_\_\_\_

EXHIBIT "A"

STATEMENT OF ACCEPTANCE

Montana Internet Corporation hereby accepts and agrees to be bound by all of the terms, conditions and provisions of the Franchise which is attached hereto and incorporated herein by this reference, subject to applicable law.

Montana Internet Corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ORDINANCES OF THE CITY OF HELENA, MONTANA**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE GRANTING A FRANCHISE TO MONTANA INTERNET CORP., AND ALLOWING THE CONSTRUCTION, OPERATION, REGULATION, AND CONTROL OF A CABLE COMMUNICATION SYSTEM WITHIN THE CITY OF HELENA, MONTANA**

**WHEREAS**, pursuant to §7-3-4223, MCA, the City of Helena may grant franchises by ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA:**

**Section 1.** That a franchise is hereby granted to Montana Internet Corp. for the purpose of the construction, operation, regulation, and control of a cable communication system within the City of Helena. The Helena City Manager and her designees are hereby authorized to complete negotiations and enter into the franchise agreement with Montana Internet Corp., which by this reference is made a part hereof.

**FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025.**

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CLERK OF THE COMMISSION**

**ORDINANCES OF THE CITY OF HELENA, MONTANA**

**Ord. 3294**

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA,  
MONTANA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CLERK OF THE COMMISSION