

Telecommunications Franchise

This Telecommunications Franchise ("Franchise") is entered into this 30th day of March, 2026, by and between the City of Three Forks ("City") and Gallatin Wireless Internet, LLC dba Wispwest ("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 Council 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 research and investigation, the City Council 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 COUNCIL OF THREE FORKS, 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, and in any proceeding under eminent domain, the Grantee acknowledges its use of the Franchise Area shall have no value.

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 its Telecommunications System under the terms of this Franchise.

H. This Franchise shall not be interpreted to prevent the City from imposing additional lawful conditions, including additional compensation 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.

4. Grantee may have three (3) City approved permits in process at one time. The City will allow a minimum of 3 active City approved permits and a maximum of 5 active City approved permits (subject to the discretion of the City). The City and Grantee will work in good faith to coordinate the number of open and active City approved permits in process. Further, the City and Grantee agree, that where the maximum number of City approved permits are open, the City will not approve a new permit until Grantee completes restoration of the Right-of-Way, sidewalks, curbs and gutters, and to the extent applicable, work done on affected private property, and closes out one of the City approved permits. Regardless of whether Grantee or a subcontractor perform the construction, all construction and maintenance of any and all facilities in the Right-of-Way or on private property shall be and remain the responsibility of Grantee. All restoration work for the Right-of-Way, sidewalks, curbs and gutters, yards and fences and private property shall be done so as to be in as good or better condition than that existing before the work of Grantee.

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.

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 sixty (60) 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, Reports and Audit

A. Franchise Fee. As a material term of this Franchise, and in consideration of the right provided Grantee to occupy Rights-of-Way for the purpose of installing and operating a Fiber Optic System within the City, Grantee agrees:

- a. To timely pay all future fees or taxes adopted by the City in accordance with Montana law pertaining to Grantee's operations within the City.
- b. Proceeds of any future adopted fee or tax shall be paid to the City in accordance with the terms of any adopting document or, if not specified in such document, no later than 30 days after the end of each calendar quarter (quarters shall end at the end of March, June, September and December).
- c. Should Grantee be prevented by law from collecting a fee or tax adopted by the City or any portions thereof, then Grantee shall be excused from the collection and distribution of the fee or tax.
- d. In the event Grantee and the City cannot agree upon whether any such fee (included but not limited to a gross revenues fee) or tax may be implemented by the City, after the fee or tax is adopted and implemented by the City, Grantee may challenge such fee or tax in a court of competent jurisdiction and the City and Grantee reserve all their rights and remedies with respect to these matters.

B. Payments and Reports.

1. Grantee's current planned services to be offered on the Telecommunications System are Telecommunications and Information Services, including but not limited to voice-over-internet protocol applications, and current law may not subject such Telecommunications or 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, Telecommunications or Information 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 and maintain the applicable rights-of-way (considered in light of other users and amounts paid by other users). Failure to agree on the Franchise Fee percentage 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.

2. It shall be Grantee's sole decision as to whether it chooses to pass through the Franchise Fee as a line-item on its customers' or subscribers' bills. In the event that the City imposes a Franchise Fee, such fee must be lawful under State and Federal law.

3. From and after the date of Grantee's provision of services subject to a Franchise Fee after the process set forth above is complete, Grantee will pay a Franchise Fee in the amount to be agreed by the parties as described above. Grantee's Franchise Fee payments to the City shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than thirty (30) days after those dates and be accompanied by a detailed report showing Grantee's Gross Revenues for the quarter upon which the Franchise Fees are based.

4. No acceptance of any payment shall be construed as an accord and satisfaction by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City may have for additional sums payable or for the performance of any other obligation of Grantee.

C. Franchise Termination. If this Franchise terminates for any reason, Grantee shall file with the City, within ninety (90) days of the date of termination, a financial statement, approved by a certified public accountant, showing the Gross Revenues received by Grantee since the end of the previous fiscal year.

D. Late Payments. In the event Franchise Fees are due under this Franchise, if any Franchise Fee payment is not received within thirty (30) days from the end of the calendar quarter, Grantee shall pay interest on the amount due (at the prime rate as listed in The Wall Street Journal on the date the payment was due), calculated from the date that payment was originally due until the date that the City receives the payment.

E. Annual Franchise Fee Reports. In the event Franchise Fees are due under this Franchise, Grantee shall, within sixty (60) days after the end of each year, furnish to the City a statement showing the total amount of Gross Revenues for the prior year and all payments and computations for the period.

F. Tax Liability and Other Fees. Any Franchise Fees charged shall be in addition to any and all lawful taxes or other levies or assessments which are now or hereafter required to be paid by businesses in general by any law of the City, the State or the United States including, without limitation, sales, use and other taxes, business license fees or other payments. Payment of the Franchise fees under this Franchise shall not exempt Grantee from the payment of any permit fee, tax or charge on the business, occupation, property or income of Grantee that may be lawfully imposed by the City.

G. Franchise Fees Subject to Audit. In the event a Franchise Fee is paid or due and owing by Grantee:

1. Upon reasonable prior written notice and no more than once annually, during normal business hours, the City shall have the right to inspect Grantee's financial records used to calculate Franchise fees; provided, however, that any such inspection shall take place within three (3) years from the date the City receives such payment, after which period any such payment shall be considered final.

2. Upon the completion of any such audit by the City, the City shall provide to the Grantee a final report setting forth the City's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Grantee shall have thirty (30) days from the receipt of the report to provide the City with a written response agreeing to or refuting the results of the audit. Based on these reports and responses, the parties shall agree upon a finally settled amount. For purposes of this Section, the term "finally settled amount" shall mean the agreed upon underpayment, if any, to the City by the Grantee as a result of any such audit. If the parties cannot agree on a finally settled amount, the parties shall submit the dispute to a mutually agreed upon mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of competent jurisdiction.

3. If the audit shows that Franchise fee payments have been underpaid by five percent (5%) or more (or such other contract underpayment threshold as set forth in a generally applicable and enforceable regulation or policy of the City related to audits), Grantee shall pay the total cost of the audit, such cost not to exceed ten thousand dollars (\$10,000). If the audit shows the Franchise fee payments have been overpaid by five percent (5%) or more, the City shall refund the over-collected amounts to be credited by Grantee on the customers' bills.

4. Any finally settled amount due to the City as a result of such audit shall be paid to the City by the Grantee within thirty (30) days from the date the parties agree upon the finally settled amount. Once the parties agree upon a finally settled amount and such amount is paid by the Grantee, the City shall have no further rights to audit or challenge the payment for that period.

Section 6. Construction and Maintenance

A. The City may inspect the manner of Grantee's work and require remedies as may be necessary to ensure 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, gas lines, drains, sewers or other structures or utilities already installed, and all such facilities shall be installed subject to the reasonable approval of the Public Works 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 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, noxious, or offensive nature (for example, graffiti) 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 Public Works Director or his/her designee.

E. 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.

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) business days of a request therefor. Said information may be requested either in hard copy or electronic format, compatible with the City's data base system.

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. In order to minimize disruption to vehicular traffic and inconvenience to the public and protect the public interests in connection with permitted uses of the Right-of-Way, which have limited capacity, conduit sharing and other collocation solutions are encouraged and shall be utilized to the extent they are technically and economically feasible. Grantee agrees, wherever technically and economically feasible, that it will endeavor to collocate its facilities and cooperate with the City in placing innerduct conduit within the Right-of-Way and in sharing unused space within underground conduits owned by Grantee and the City. At any time that the City or Grantee intends to install new underground conduit or replace existing underground conduit in the Right-of-Way, such party shall endeavor to provide the other party with forty-five (45) days advance written notice in order to permit the additional contemporaneous installation of innerduct conduit for potential collocation. If either party desires additional innerduct conduit to be installed, it will so notify the other party. The party providing such notice shall be responsible for the additional incremental expense for installing additional innerduct conduit. The parties agree that such conduit or innerduct conduit jointly occupied or used by the City may not be sold or leased by the City to third parties for the provision of competitive services.

J. 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.

K. 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.

L. The City expressly reserves the right to prescribe how and where Grantee's facilities shall be installed within the Right-of-Way and may from time to time, pursuant to the applicable sections of this Franchise, require the removal, relocation and replacement thereof in the public interest and safety at the expense of the Grantee.

M. 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.

N. Upon prior written approval of the City and in accordance with City rules and regulations, 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.

O. 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.

P. 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.

Q. Micro trenching shall not be used or allowed in the City under this Franchise for construction of any portion of the Telecommunications System.

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 Public Works Director or his/her designee.

Section 9. Location Preference

Any structure, equipment, appurtenance, or tangible property of a utility, other than property of the Grantee, which was installed, constructed, completed or in place prior in time

to Grantee's application for a permit to construct 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 which shall be governed by the relocation provisions of this Franchise. No location of any of Grantee's facilities shall give rise to a vested interest in public property.

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. Relocation and Abandonment of Grantee's Facilities

A. Relocation. Unless otherwise provided by State law, Grantee shall, at no expense or liability to the City, disconnect, relocate, reroute or remove any of Grantee's facilities, property or equipment located in a Right-of-Way when required by the City consistent with its police powers (for example, without limitation, by reason of traffic conditions, public safety, Right-of-Way vacation, Right-of-Way construction, change or establishment of Right-of-Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the City for public purposes). Except during an emergency, the City shall provide reasonable notice to Grantee of its need to relocate that is commensurate with the complexity of the project, but not less than sixty (60) days, and allow Grantee an opportunity to perform such action. Following notice by the City, Grantee shall relocate, remove, reroute, replace, modify or disconnect any of its facilities or equipment within any Right-of-Way, or on any other property of the City. If the City requires Grantee to relocate its facilities located within the Right-of-Way, the City shall provide Grantee with an alternative location within the Right-of-Way.

Excluding circumstances or events outside of its reasonable control, if Grantee fails to complete this work within the time prescribed to the City's reasonable satisfaction, the City may cause such work to be done at Grantee's reasonable cost and expense; and provided further that the City shall not be liable for any damage to any portion of the Telecommunications System except to the extent caused by the negligence of the City or its contractor. Within thirty (30) days of receipt of an itemized list of those costs, Grantee shall pay the City.

If a readjustment or relocation of Grantee's facilities is necessitated by a request from someone other than the City, Grantee may seek recourse against that other person or entity to pay the actual costs thereof.

B. Temporary Changes for Other Permittees. At the request of any person holding a valid permit, upon reasonable advance notice, Grantee shall temporarily raise, lower or remove its facilities, property or equipment as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and Grantee may require a reasonable deposit of the estimated payment in advance.

C. Alternatives to Relocation. Grantee may, after receipt of written notice requesting a relocation of its facilities, submit to the City written alternatives to such relocation. Such alternatives may include the use and operation of temporary transmitting facilities in adjacent Right-of-Way. The City shall promptly evaluate such alternatives and advise Grantee in writing if one or more of the alternatives is suitable. If requested by the City, Grantee shall promptly submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by Grantee full and fair consideration. In the event the City ultimately determines that there is no other reasonable alternative, Grantee shall relocate the components of the system as otherwise provided herein.

D. Discontinuing Use/Abandonment of System Facilities. Whenever Grantee intends to discontinue using any facility in the Right-of-Way, Grantee shall submit for the City's approval a complete description of the facility and the date on which Grantee intends to discontinue using the facility. Grantee may remove the facility or request that the City allow it to remain in place and to convey the same to the City through a letter of abandonment or bill of sale. Until such time as Grantee removes or transfers the facility, Grantee shall be responsible for the facility as if the facility were in active use and Grantee shall retain all liability for the facility during such time. If Grantee abandons its facilities, the City may provide Grantee with written notice of the City's desire to utilize such abandoned facilities, and Grantee shall then have sixty (60) days in which to respond with either assent to transfer such facilities to the City, or an affirmation that such facilities are not abandoned, in which case the facilities shall remain with Grantee. Upon assent by Grantee to the transfer of such facilities, the parties shall execute appropriate documentation to memorialize the transfer.

Section 12. Undergrounding

A. The parties agree that this Franchise does not limit the City's authority under Federal law, State law, or local ordinance, to require the undergrounding of utilities. Any such

undergrounding requirement shall be imposed equally on all permit or franchise holders using the Right-of-Way to which such requirement applies.

B. Whenever the City requires the undergrounding of aerial utilities in the Franchise Area, the Grantee shall underground its facilities in the manner specified by the City at no expense or liability to the City. Where utilities are present and involved in the undergrounding project, Grantee shall only be required to pay its fair share of common costs borne by all persons, in addition to the costs specifically attributable to the undergrounding of Grantee's facilities. Common costs shall include, for example, necessary costs for trenching and utility vaults. The fair share shall be determined in comparison to the total number and size of all facilities being placed underground.

Section 13. Indemnification and Hold Harmless

A. 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, or liabilities are caused by the negligence of the City.

B. 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 any damage or loss to Grantee's facilities caused by maintenance and/or construction work performed by, or on behalf of, the City within the Franchise Area or any Right-of-Way, or other property, except to the extent any such damage or loss is directly caused by the negligence of the City.

C. If separate representation to fully protect the interests of both parties is or becomes necessary, such as a conflict of interest between the City and the counsel selected by Grantee to represent the City, Grantee shall pay, from the date such separate representation is required forward, all reasonable expenses incurred by the City in defending itself with regard to any action, suit or proceeding indemnified by Grantee. The City's expenses shall include all reasonable out-of-pocket expenses, such as consultants' and attorneys' fees, and shall also include the reasonable value of any services rendered by the City Attorney or her/his assistants or any employees of the City or its agents but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Grantee.

D. The fact that Grantee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Grantee's duty of defense and indemnification under this Section.

E. In the defense of any action subject to this Section, Grantee shall solely control the defense and any decision to settle any claim, which shall be at Grantee's sole expense

and provided that the City is completely released in writing from any liability regarding the claim.

Section 14. Insurance

A. The Grantee shall procure and maintain for the duration of this Franchise, and for one (1) year thereafter, insurance against claims for injuries to persons or damage 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. Commercial General Liability insurance with limits no less than \$3,000,000 each occurrence, \$3,000,000 general aggregate and a \$3,000,000 products-completed operations aggregate limit. The insurance shall cover liability arising from premises, operations, products-completed operations, stop gap liability, and personal injury and advertising injury and liability assumed under an insured contract. There shall be no exclusion or modification of the Commercial General Liability insurance for liability arising from explosion, collapse, or underground property damage.

2. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles with a combined single limit for bodily injury and property damage of \$2,000,000 per accident.

3. Professional Liability insurance with limits no less than \$2,000,000 per claim for all professionals employed or retained by Grantee to perform services under this Franchise.

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.

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 so 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 policies shall contain, or be endorsed so that the City, its City Council, officers, officials, boards, employees and agents are to be covered as, and have the rights of, additional insureds without exception 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 15. Generally Applicable Bonds/Performance Bond

A. Generally Applicable Bonds. During construction of the Telecommunications System, Grantee shall be required to obtain bonds, such as generally applicable construction bonds, in accordance with State law and the City's ordinary policies and procedures to cover remedial work and restoration of the Right-of-Way. The bonds shall cover the cost of labor, materials and all other items associated with such work by geographic area (to be mutually determined between the City and Grantee) with the intention that the bond will apply on a rolling basis as opposed to covering the costs of construction for the entire Telecommunications System.

B. Performance Bond

1. Grantee shall provide a performance bond in the amount of five hundred thousand dollars (\$500,000) upon execution of the Letter Agreement between the City and Grantee or together with the completed Right of Way application, whichever is the later, to

ensure the faithful performance of its responsibilities under this Franchise and applicable law, including, by way of example and not limitation, its obligations to relocate and remove its facilities. The performance bond shall be in a standard industry form. Grantee shall pay all premiums or costs associated with maintaining the bond and shall keep the same in full force and effect at all times.

2. The bond shall not be canceled or materially altered so as to be out of compliance with the requirements of this Section without forty-five (45) days written notice first being given to the City. If the bond is canceled or materially altered so as to be out of compliance with the requirements of this Section within the term of this Franchise, Grantee shall provide a replacement bond.

3. After the giving of notice by the City to Grantee, and expiration of any applicable cure period, the performance bond may be drawn upon by the City for purposes that include, but are not limited to the following:

- a. Failure of Grantee to pay the City sums due under the terms of this Franchise;
- b. Reimbursement of costs borne by the City to correct Franchise violations not corrected by Grantee; and
- c. Damages assessed against Grantee as provided in this Franchise.

4. The City shall give Grantee written notice of any withdrawal under this Section upon such withdrawal. Within ten (10) days following receipt of such notice, Grantee shall restore and replenish the performance bond to the amount required under this Franchise. Grantee's maintenance of the performance bond shall not be construed to excuse unfaithful performance by Grantee or limit the liability of Grantee to the amount of the performance bond or otherwise limit the City's recourse to any other remedy available at law or in equity.

5. Grantee shall have the right to appeal to the City Council for reimbursement in the event Grantee believes that the performance bond was drawn upon improperly. After a determination by the City Council, Grantee shall also have the right of judicial appeal if Grantee believes the performance bond has not been properly drawn upon in accordance with this Franchise. Any funds the City erroneously or wrongfully withdraws from the performance bond shall be returned to Grantee with interest, from the date of withdrawal at a rate equal to the prime rate of interest as quoted in The Wall Street Journal on the date the City withdrew funds from the performance bond until the date the City returns the funds to Grantee.

Section 16. Successors and Assigns

A. 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.

B. Neither this Franchise nor the Telecommunications System, shall be leased, assigned or otherwise transferred in whole or in part without the express prior written consent of the City by ordinance, which consent shall not be unreasonably withheld. In the event such a transfer or assignment is part of a corporate transaction approved by the Montana Public Service Commission ("MPSC"), the approval by the MPSC shall be deemed consent to the transfer or assignment from the City. Grantee shall notify the City as soon as practicable after the filing of any petition with the MPSC in this regard.

C. Grantee and any proposed assignee or transferee shall provide and certify the following to the City not less than sixty (60) days prior to the proposed date of sale or transfer: (i) Complete information setting forth the nature, terms and conditions of the proposed assignment or transfer; (ii) All information required by the City of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (iii) An application fee which shall be set by the City, plus any other costs actually and reasonably incurred by the City in processing, and investigating the proposed assignment or transfer, such additional costs not to exceed \$7,500.

D. 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 17. Dispute Resolution

In the event of a dispute between the City and Grantee arising under 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 18. Enforcement and Remedies

A. If the Grantee shall 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, at its discretion, either (i) revoke the Franchise with no further notification, or (ii) claim liquidated damages of two hundred fifty dollars (\$250.00) per day against the performance bond set forth in this Franchise for every day after the expiration of the cure period that the breach is not cured, up to a maximum of \$15,000 per year.

B. Should the City determine that Grantee is acting beyond the scope of permission granted herein for Grantee's facilities or Grantee's services, the City reserves the right to cancel this Franchise and require the Grantee to apply for, obtain, and comply with all applicable City permits, franchises, or other City permissions for such actions, and if the Grantee's actions are not allowed under applicable Federal, State or City laws, to compel Grantee to cease such actions through injunctive relief.

Section 19. Compliance with Laws and Regulations

This Franchise is subject to, and the City 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 20. Damages Limitation

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

Section 21. 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: Mayor
City of Three Forks
206 Main Street
PO Box 187
Three Forks, MT 59752

with a copy to: City Clerk
City of Three Forks
206 Main Street
PO Box 187
Three Forks, MT 59752

Grantee: Gallatin Wireless Internet, LLC
Attn: General Manager
1601 S Park Dr
Cody, WY 82414

Section 22. 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, flood, 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 Montana State District Court in Gallatin County or the U.S. District Court for the District of Montana.

J. Attorneys' Fees. In the event any action, suit or other proceeding is instituted to enforce or interpret any provision of this Franchise, the substantially 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.

L. Cost of Publication. Grantee shall pay the cost of notice and publication of this Franchise.

M. Authorization. Each of the undersigned represents and warrants that he or she is duly authorized to sign on behalf of their respective entity.

Section 23. Effective Date.


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

PASSED by the City Council of the City of Three Forks, Montana this 30th day of March, 2026.




Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney


Published: _____

EXHIBIT "A"

STATEMENT OF ACCEPTANCE

Gallatin Wireless Internet, LLC dba Wispwest, 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.

Gallatin Wireless Internet, LLC dba Wispwest

By: 
Name: Neil Schlenker
Title: Manager

Date: 3/24/2026